MINNEAPOLIS CITY COUNCIL OFFICIAL PROCEEDINGS

REGULAR MEETING OF March 6, 2009

(Published March 14, 2009, in Finance and Commerce)

Council Chamber

350 South 5th Street

Minneapolis, Minnesota

March 27, 2009 - 9:30 a.m.

Council President Johnson in the Chair.

Present - Council Members Lilligren, Colvin Roy, Glidden, Remington, Benson, Goodman, Hodges, Samuels, Gordon, Hofstede, Ostrow, Schiff and President Johnson.

A moment of silence was observed in remembrance of former Council Member Alice Rainville (1928-2009).

Lilligren moved adoption of the agenda. Seconded.

Adopted upon a voice vote 3/6/2009.

Absent - Benson.

Lilligren moved acceptance of the minutes of the regular meeting and the adjourned session of February 20, 2009; and the adjourned session of February 23, 2009. Seconded.

Adopted upon a voice vote 3/6/2009.

Absent - Benson.

Lilligren moved referral of petitions and communications and reports of the City officers to the proper Council committees and departments. Seconded.

Adopted upon a voice vote 3/6/2009.

Absent - Benson.

PETITIONS AND COMMUNICATIONS

COMMUNITY DEVELOPMENT (See Rep):

COMMUNITY PLANNING & ECONOMIC DEVELOPMENT (273312)

Lyndale Green Project (612 W 28th St): Redevelopment project analysis authorization.

Parcel A (re northeast side of 2nd St S between 3rd & 5th Aves S): Granting of Exclusive Development Rights to Eagle Iron Partners Joint Venture, Lupe Development Partners, LLC & North First Ventures, LLC.

COMMUNITY DEVELOPMENT and WAYS & MEANS/BUDGET (See Rep):

COMMUNITY PLANNING & ECONOMIC DEVELOPMENT (273313)

MN Department of Employment & Economic Development Redevelopment Grant: Acceptance of award for Center for Changing Lives & LSS Park Avenue Apartments.

HEALTH, ENERGY AND ENVIRONMENT:

CIVILRIGHTS (273314)

Contract Compliance Unit: Report on 2008 activity and results.

REGULATORY SERVICES (273315)

EPA Community Action for a Renewed Environment Grant: Request to submit grant application to Federal Environmental Protection Agency to investigate and implement effective methods of air quality improvement in the Phillips Neighborhood.

HEALTH, ENERGY AND ENVIRONMENT (See Rep):

CIVILIAN POLICE REVIEW AUTHORITY (273316)

Civilian Police Review Authority: Ordinance amending Title 9, Chapter 172 adding a vice chairperson to be appointed by the Mayor, with the chairperson and vice chairperson to have two-year staggered terms; and allowing the Board to appoint an acting chairperson in the absence of a chairperson or vice chairperson with full authority to conduct actions.

HEALTH, ENERGY AND ENVIRONMENT and WAYS & MEANS/BUDGET (See Rep):

HEALTH AND FAMILY SUPPORT SERVICES (273317)

348-TOTS Pre-school Program: Authorize reprogram \$34,500 in unexpended Year 34 CDBG public service funds to support early childhood pre-school screening services provided by Hennepin County.

CDBG Public Service Funds: Approve list of agencies and amounts recommended for funding by the Public Health Advisory Committee for period June 1, 2009 through May 31, 2011; Execute annual contracts with the approved list of agencies; and Approve list of agencies recommended by PHAC as approved but not funded.

INTERGOVERNMENTAL RELATIONS:

FINANCE DEPARTMENT (273318)

State Fiscal Relations: Report back on staff directive regarding state taxes, aids and credits.

INTERGOVERNMENTAL RELATIONS (See Rep):

COUNCIL MEMBER HODGES (273319)

The Alliance: A University District Partnership 2007-2009 Progress Report: Draft letters to The Alliance confirming City Council support for moving The Alliance work forward.

INTERGOVERNMENTAL RELATIONS (273320)

City of Mpls 2009 Legislative Agenda: Amendment relating to opposition of Senate File No. 840 regarding limitations on local authority regulating certain hydropower facilities.

PUBLIC SAFETY AND REGULATORY SERVICES (See Rep):

LICENSES AND CONSUMER SERVICES (273321)

Licenses: Applications.

REGULATORY SERVICES (273322)

Chapter 249 Property at 2321 Fremont Av N: Authorize demolition.

REGULATORY SERVICES (273323)

Chapter 249 Property at 2426 Plymouth Av N: Authorize demolition.

REGULATORY SERVICES 273324)

Housing Board of Appeals: Approve reappointments of Beth Hart, Sandy Loescher, Kristen Denzer, Lauren Maker, Matthew Knopp, Anne Gilbertson-Seeling, Steven Leventhal, JoAnn Velde, Bryan Tyner, Ruth Kildow, Geri Meyer, and Lee Wolf.

MARCH 6, 2009

Pollution Control: Ordinances amending Title 3, Chapters 46, 47, 48, 50 and 54 amending the annual registration language and identifying separate violations for each day registration is not renewed: REGULATORY SERVICES (273325)

Rental Dwelling License at 828 22nd Av NE: Revoke license held by Pedro Llivichuzca.

PUBLIC SAFETY AND REGULATORY SERVICES and WAYS & MEANS/BUDGET (See Rep):

FIRE DEPARTMENT (273326)

Commercial Building Registration Program: Ordinance amending Title 9, Chapter 174 authorizing and establishing a commercial building registration program.

REGULATORY SERVICES (273327)

Metropolitan Medical Response System Program: Execute contract with Ramsey County Public Health to provide administration to coordinate the development and implementation of the program.

Emergency Preparedness: Accept Emergency Management Performance Grant as pass through from Hennepin County and grant from Target Corporation; and Approve appropriation.

TRANSPORTATION AND PUBLIC WORKS:

PUBLIC WORKS AND ENGINEERING (273328)

Innovative Graffiti Prevention Micro Grants: Final report.

XCELENERGY (273329)

Utility Poles: a) 800 Washington Ave SE; b) 5040 Hiawatha Ave; c) 2525 Queen Ave N; and d) 2054 James Ave N.

TRANSPORTATION AND PUBLIC WORKS (See Rep):

PUBLIC WORKS AND ENGINEERING (273330)

Unimproved Public Rights-of-Way: Leases to abutting property owners.

Cedar Lake Trail: Agreement with Hennepin Country Regional Rail Authority (HCRRA).

Lynnhurst (Phase V) Street Renovation Project No 5198: Project designation.

Oak Hill Area (West Half) Street Resurfacing Project No 5193: Project designation.

Thomas Ave N Street Resurfacing Project No 5195: Project designation.

Right-of-Way Permits: Amending ordinances to reflect existing City practices.

Lowry Ave Bridge: Preliminary layout approval.

TRANSPORTATION AND PUBLIC WORKS and WAYS & MEANS/BUDGET (See Rep):

PUBLIC WORKS AND ENGINEERING (273331)

Hamilton School (4119 Dupont Ave N): Cooling system upgrade; and negotiate purchase price for potential acquisition.

Northstar Corridor/LRT Extension: Signal controller work.

Northstar Corridor/LRT Extension: Utility agreement amendment.

Paving and Bridge Operations: Project close-outs.

Bloomington Ave S Street Resurfacing Project No 5194: Adopt assessments.

OP 7057, Knutson Construction Services, Inc, for construction of Hiawatha Maintenance Facility.

WAYS AND MEANS BUDGET (See Rep):

ATTORNEY (273332)

Legal Settlement: Mercury Refining Superfund Site. BUSINESS INFORMATION SERVICES (BIS) (273333)

COMPASS Financials: Oracle USA, Inc. contract amendment.

CITY CLERK AND PROCUREMENT (273334) OP #7088: Accept bid of Finance & Commerce.

ZONING AND PLANNING (See Rep):

HERITAGE PRESERVATION COMMISSION (273335)

Appeal - 3009 Park Ave S (Pauline Fjelde residence): appeal of HPC decision denying application for Demolition of a Historic Resource, establishing interim protection, and directing the Planning Director to prepare a designation study for the property.

PLANNING COMMISSION/DEPARTMENT (273336)

Appeal:

1120 W Broadway: Conditional Use Permit for a fast food restaurant, variance to reduce side yard, & variance to reduce minimum drive aisle width.

Minneapolis Arts Commission Appointment.

FILED:

CHARTER COMMISSION (273337)

Charter Revision: a) Cover letter; b) Report; c) Exeuctive Summary; d) Revision - Draft 12; e) Side-by-Side Comparison: Successor Provisions to Source Provisions; f) Side-by-Side Comparison: Source Provisions to Successor Provisions; and g) Park Board Resolution of support.

CHARTER COMMISSION (273338)

Proposed Charter amenments re elimination of Park Board and Board of Estimate and Taxation, and change in City governance: a) Proposed amendments; b) Update Minneapolis 2009; c) Proposal Questions and Answers; and d) Public comments.

LICENSES AND CONSUMER SERVICES (273339)

Taxicab Meter Fares: Taxicab fare adjustment update.

HI-LAKE, LLC (273340)

Vicinity of East Lake Street and Hiawatha Avenue, alley to be vacated.

The following reports were signed by Mayor Rybak on March 10, 2009, unless noted otherwise. Minnesota Statutes, Section 331A.01, Subd 10, allows for summary publication of ordinances and resolutions in the official newspaper of the city.

REPORTS OF STANDING COMMITTEES

The COMMUNITY DEVELOPMENT Committee submitted the following reports:

Comm Dev - Your Committee, having under consideration the Lyndale Green Project, a proposed mixed-use development consisting of 65 rental apartments, 9,000 square feet of neighborhood commercial space and 105 parking spaces at 610 W 28th St, now recommends that the proper City officers be authorized to continue analysis of said project proposal; negotiate terms and conditions of a redevelopment contract with Brighton Development Corporation, or an affiliated entity; and prepare a tax increment financing plan for said project, subject to final determination of project eligibility, required reviews, public input, notices, and hearings.

Adopted 3/6/2009.

Absent - Benson.

Comm Dev - Your Committee, having under consideration the Request for Proposals issued for development of Parcel A, located on the northeast side of 2nd St S between 3rd and 5th Aves S, now recommends the granting of Exclusive Development Rights to Eagle Iron Partners Joint Venture, Lupe Development Partners, LLC and North First Ventures, LLC (or an affiliate), consistent with the Exclusive Development Rights Term Sheet for Parcel A, set forth in the Department of Community Planning & Economic Development staff report (Petn No 273312).

Goodman moved that the Petition referred to in the report be amended by adding the following additional term:

"To address City concerns that:

a) The Developer has been exploring a drug store retail tenant in the project;

- b) The drug store retail industry has a history of failing to comply with the spirit of the City's site plan ordinances restricting window obstructions; and
- c) Such standard practices would have a negative impact on the historic nature of the Mill District Area, the Developer of the site must agree to a filing of a restrictive covenant against the property requiring that the views into or out of the windows of any retail space may not be blocked by signage, shelving, mechanical equipment or otherwise (whether attached to the window or not) in excess of ten percent of the window area, and shall not block any views into and out of the building at eye level. The property owner must pay to the City a penalty of \$1000 per day for every day of non-compliance." Seconded.

Adopted upon a voice vote.

Absent - Benson.

The report, as amended, was adopted 3/6/2009.

Absent - Benson.

The COMMUNITY DEVELOPMENT and WAYS & MEANS/BUDGET Committees submitted the following report:

Comm Dev & W&M/Budget - Your Committee recommends that the proper City officers be authorized to accept and appropriate the Minnesota Department of Employment and Economic Development Redevelopment Program grant in the amount of \$204,400 for the Center for Changing Lives and LSS Park Avenue Apartments, and to execute grant, subrecipient and/or disbursement and related agreements for this grant.

Your Committee further recommends passage of the accompanying resolution increasing the Community Planning and Economic Development Department appropriation to reflect the receipt of grant funds, and increasing the revenue budget.

Adopted 3/6/2009.

Absent - Benson.

RESOLUTION 2009R-074 By Goodman and Ostrow

Amending the 2009 General Appropriation Resolution.

Resolved by The City Council of The City of Minneapolis:

That the above-entitled resolution, as amended, be further amended by increasing the appropriation in the Department of Community Planning and Economic Development Grants-Other Fund (01600-8900220) by \$204,400 and increasing the revenue source (01600-8900900-321504) by \$204,400.

Adopted 3/6/2009.

Absent - Benson.

The HEALTH, ENERGY & ENVIRONMENT Committee submitted the following report:

HE&E—Your Committee, to whom was referred an ordinance amending Title 9, Chapter 172 of the Minneapolis Code of Ordinances relating to *Fire and Police Protection: Civilian Police Review Authority*, adding a vice chairperson to be appointed by the Mayor, with the chairperson and vice chairperson to have two-year staggered terms; and allowing the Board to appoint an acting chairperson in the absence of a chairperson or vice chairperson with full authority to conduct actions, now recommends that said ordinance be given its second reading for amendment and passage.

Gordon moved that the report be postponed. Seconded.

Adopted upon a voice vote 3/6/2009.

Absent - Benson.

The HEALTH, ENERGY & ENVIRONMENT and WAYS & MEANS/BUDGET Committees submitted the following reports:

HE&E & W&M/Budget — Your Committee recommends that the proper City officers be authorized to reprogram \$34,500 in unexpended Year 34 (2009-10) Community Development Block Grant (CDBG) public service funds to support early childhood pre-school screening services provided by Hennepin County through its 348-TOTS program, and inclusion in the 2009 Consolidated Plan.

Adopted 3/6/2009.

Absent - Benson.

HE&E & W&M/Budget – Your Committee, having under consideration recommendations from the Public Health Advisory Committee on funding priorities for Community Development Block Grant (CDBG) Public Service Funds, now recommends:

HE&E-a) Approval of the following list of agencies and amounts recommended for funding by the Public Health Advisory Committee for federal CDBG public service funds, for a total amount not to exceed \$552,000, for the period June 1, 2009 through May 31, 2011:

Catholic Charities, \$67,500, for seniors;

Minnesota International Health Volunteers, \$67,500, for seniors;

Living at Home/Block Nurse Programs (Nokomis, Southeast, Longfellow/Seward), \$67,500, for seniors:

Southside Community Health Services, \$65,000, for teen pregnancy prevention;

Greater Minneapolis Council of Churches/Division of Indian Work, \$35,000, for teen pregnancy prevention;

Minneapolis Public Schools TAPPP, \$67,500, for teen pregnancy prevention;

Centro Cultural Chicano, Inc, \$46,500, for youth violence;

Minneapolis Urban League, \$67,500, for youth violence;

Lao Family Community of Minnesota, Inc, \$67,500, for youth violence.

That the proper City officers be authorized to execute annual contracts with the approved list of agencies for the period June 1, 2009 through May 31, 2011, with both years of funding contingent upon funds available from the Department of Housing and Urban Development and agency performance.

 b) Approval of the following additional list of agencies recommended by the Public Health Advisory Committee as approved but not funded under existing funding caps:

YWCA of Minneapolis, \$67,500, for teen pregnancy prevention;

YouthLink, \$60,000, for teen pregnancy prevention;

Eastside Neighborhood Services, Inc, \$67,500, for youth violence;

Eastside Neighborhood Services, Inc, \$67,500, for seniors;

Greater Minneapolis Council of Churches, HandyWorks, \$45,000, for seniors.

That the proper City officers be authorized to execute contracts with one or more agencies if funding becomes available.

W&M/Budget - that the recommendation of the Public Health Advisory Committee be sent forward without recommendation.

Gordon moved that the report be amended to approve the Health, Energy & Environment Committee recommendation and to delete the Ways & Means/Budget Committee recommendation. Seconded.

Adopted by unanimous consent.

Absent - Benson.

The report, as amended, was adopted 3/6/2009.

Absent – Benson.

The INTERGOVERNMENTAL RELATIONS Committee submitted the following reports:

IGR - Your Committee, having under consideration Senate File No. 840, a bill amending legislation regulating certain hydropower facilities, now recommends that the City of Minneapolis

2009 Legislative Agenda, adopted December 12, 2008, be amended to add language as the last bullet under the priorities section in the "Municipal Governance" section to read as follows:

"The City of Minneapolis opposes limitations on local authority as proposed in Senate File No. 840."

Adopted 3/6/2009. Absent - Benson.

IGR - Your Committee, having under consideration the 2007-2009 progress report of The Alliance-A University District Partnership, now recommends approval of the submission of a letter on behalf of the City Council to The Alliance, as set forth in Petn No 273320, affirming support of the City continuing, within limited resources, to help move the Alliance's work forward, in accordance with the City of Minneapolis 2009 Legislative Agenda, adopted December 12, 2008, as amended.

Adopted 3/6/2009. Absent - Benson.

The PUBLIC SAFETY & REGULATORY SERVICES Committee submitted the following reports:

PS&RS - Your Committee, to whom was referred ordinances amending Title 3 of the Minneapolis Code of Ordinances relating to *Air Pollution and Environmental Protection*, amending the annual registration language to require that all annual registrations must be renewed by January 31st; and that each day a registration is not renewed may be identified as a separate violation, now recommends that the following ordinance be given their second reading for amendment and passage:

- a. Chapter 46 relating to Hazardous Waste Generation, Handling, Storage and Disposal
- b. Chapter 47 relating to Air Pollution
- c. Chapter 48 relating to Minneapolis Watershed Management Authority
- d. Chapter 50 relating to Minneapolis Waste Control and Waste Discharge Rules
- e. Chapter 54 relating to Storm Water Management.

Adopted 3/6/2009.

Absent - Benson.

Ordinance 2009-Or-015 amending Title 3, Chapter 46 of the Minneapolis Code of Ordinances relating to *Air Pollution and Environmental Protection: Hazardous Waste Generation, Handling, Storage and Disposal*, amending Section 46.50 to amend the annual registration language to require that all annual registrations must be renewed by January 31st; and that each day a registration is not renewed may be identified as a separate violation, was adopted 3/6/2009 by the City Council. A complete copy of this ordinance is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized ordinance.

ORDINANCE 2009-Or-015
By Samuels
Intro & 1st Reading: 2/6/2009
Ref to: PS&RS
2nd Reading: 3/6/2009

Amending Title 3, Chapter 46 of the Minneapolis Code of Ordinances relating to Air Pollution and Environmental Protection: Hazardous Waste Generation, Handling, Storage and Disposal.

The City Council of The City of Minneapolis do ordain as follows:

Section 1. That Section 46.50 (a) of the above-entitled ordinance be amended to read as follows:

46.50 Pollution Control Annual Billing (PCAB) registration of a hazardous waste facility. (a) The site operator in control of a hazardous waste facility established under this ordinance or existing prior to this ordinance, shall register that site annually with the assistant city coordinator of regulatory services or the assistant city coordinator's authorized agent. The site operator shall also remit an annual registration fee, per site, in an amount as established in Appendix J, License Fees Schedule. The site operator or their agent, by submission and payment, confirm that the hazardous waste facility has been inspected, maintained and is functioning satisfactorily. The annual fee shall be due and payable on December 31 January 31st of each year. If registration is not received or postmarked on or before December 31 January 31st of each year, the applicant shall pay late fees provided for such registration. Each day of failure to maintain or obtain registration may constitute a separate violation of this Code.

Adopted 3/6/2009.

Absent - Benson.

Ordinance 2009-Or-016 amending Title 3, Chapter 47 of the Minneapolis Code of Ordinances relating to *Air Pollution and Environmental Protection: Air Pollution*, amending Section 47.40 to amend the annual registration language to require that all annual registrations must be renewed by January 31st; and that each day a registration is not renewed may be identified as a separate violation, was adopted 3/6/2009 by the City Council. A complete copy of this ordinance is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized ordinance.

ORDINANCE 2009-Or-016
By Samuels
Intro & 1st Reading: 2/6/2009
Ref to: PS&RS
2nd Reading: 3/6/2009

Amending Title 3, Chapter 47 of the Minneapolis Code of Ordinances relating to Air Pollution and Environmental Protection: Air Pollution.

The City Council of The City of Minneapolis do ordain as follows:

Section 1. That Section 47.40 (a) of the above-entitled ordinance be amended to read as follows: 47.40. Pollution Control Annual Billing (PCAB) registration. (a) The owner or site operator of the equipment or items listed in this section shall register such equipment or items annually with the assistant city coordinator of regulatory services or the assistant city coordinator's authorized agent. The owner or site operator shall also remit an annual registration fee, per site, in an amount as provided established in the license and annual billing fees schedule Appendix J, License Fees Schedule. Such equipment or items may not be operated without proper registration as outlined in this section. The site operator or their agent, by submission and payment, confirm that the equipment or item has been inspected, maintained and is functioning satisfactorily. The annual fee shall be due and payable on November 1 January 31st of each year. If registration is not received or postmarked on or before November 1 January 31st of each year, the applicant shall pay applicable late fees provided for such registration. Each day of failure to maintain or obtain registration may constitute a separate violation of this Code.

Adopted 3/6/2009.

Absent - Benson.

Ordinance 2009-Or-017 amending Title 3, Chapter 48 of the Minneapolis Code of Ordinances relating to Air Pollution and Environmental Protection: Minneapolis Watershed Management Authority,

MARCH 6, 2009

amending Section 48.310 to amend the annual registration language to require that all annual registrations must be renewed by January 31st; and that each day a registration is not renewed may be identified as a separate violation, was adopted 3/6/2009 by the City Council. A complete copy of this ordinance is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized ordinance.

ORDINANCE 2009-Or-017 By Samuels Intro & 1st Reading: 2/6/2009 Ref to: PS&RS 2nd Reading: 3/6/2009

Amending Title 3, Chapter 48 of the Minneapolis Code of Ordinances relating to Air Pollution and Environmental Protection: Minneapolis Watershed Management Authority.

The City Council of The City of Minneapolis do ordain as follows:

Section 1. That Section 48.310 of the above-entitled ordinance be amended to read as follows: **48.310.** Permitting and annual fees. (a) For the equipment specified below applicant(s) shall pay the permitting fee as established in the director's fee schedule pursuant to section 91.70 upon application and an annual fee as established in Appendix J each year the equipment/condition exists. License Fees Schedule.

TABLE INSET:

Equipment/Condition

Permit/Filing Fee (see director's fee schedule pursuant to section 91.70) Annual Fee (see Appendix J)

Aboveground storage tank Install/remove (48.120) Abandonment (48.120) Storage of regulated substances (48.125) Underground storage tank Out of service (48.150) Install/remove (48.130 and 48.145) Abandon in place (48.130 and 48.145) Annual chemical inventory registration (48.160) Contaminated site (48.230) Open leak site CERCLIS/MERLA site

On-site remediation, except wells (48.240)

Wells (48.260)

Construction, modification, reconstruction,

sealing

Water supply well maintenance

Monitoring and recovery well maintenance

Oil/water separator (48.270)

Sediment trap (48.270)

Industrial waste generator (48.280)

Contaminated soil storage (48.300)

(b) The annual fee shall be due and payable on December 31 January 31st of each year. If registration is not received or postmarked on or before December 31 January 31st of each year, the applicant must pay double the shall pay late fees provided for such registration. Each day of failure to maintain or obtain registration may constitute a separate violation of this Code.

(c) Failure to obtain the appropriate permit prior to beginning work will result in a double permit fee. (d) Each day of failure to register shall constitute a separate violation of this Code. Adopted 3/6/2009.

Absent - Benson.

Ordinance 2009-Or-018 amending Title 3, Chapter 50 of the Minneapolis Code of Ordinances relating to *Air Pollution and Environmental Protection: Minneapolis Waste Control and Waste Discharge Rules*, amending Section 50.70 to amend the annual registration language to require that all annual registrations must be renewed by January 31st; and that each day a registration is not renewed may be identified as a separate violation, was adopted 3/6/2009 by the City Council. A complete copy of this ordinance is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized ordinance.

ORDINANCE 2009-Or-018
By Samuels
Intro & 1st Reading: 2/6/2009
Ref to: PS&RS
2nd Reading: 3/6/2009

Amending Title 3, Chapter 50 of the Minneapolis Code of Ordinances relating to Air Pollution and Environmental Protection: Minneapolis Waste Control and Waste Discharge Rules.

The City Council of The City of Minneapolis do ordain as follows:

Section 1. That Section 50.70 of the above-entitled ordinance be amended to read as follows:

- **50.70.** Fees. (a) The fees for permitting a discharge as required by sections 50.40, 50.50, and 50.60 of this chapter shall be as established in the director's fee schedule pursuant to section 91.70. Upon application an annual fee shall be as established in Appendix J. for each year the discharge exists License Fees Schedule.
- (b) The annual fee shall be due and payable on December 31 January 31st of each year. If registration is not received or postmarked on or before December 31 January 31st of each year, the applicant shall pay double the late fees provided for such registration. Each day of failure to maintain or obtain registration may constitute a separate violation of this Code.
- (c) Failure to obtain the appropriate permit prior to discharging will result in a doubling of permit fees.

(d) Each day of failure to register may constitute a separate violation of this Code.

Adopted 3/6/2009.

Absent - Benson.

Ordinance 2009-Or-019 amending Title 3, Chapter 54 of the Minneapolis Code of Ordinances relating to *Air Pollution and Environmental Protection: Storm Water Management*, amending Section 54.90 to amend the annual registration language to require that all annual registrations must be renewed by January 31st; and that each day a registration is not renewed may be identified as a separate violation, was adopted 3/6/2009 by the City Council. A complete copy of this ordinance is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized ordinance.

ORDINANCE 2009-Or-019
By Samuels
Intro & 1st Reading: 2/6/2009
Ref to: PS&RS
2nd Reading: 3/6/2009

Amending Title 3, Chapter 54 of the Minneapolis Code of Ordinances relating to Air Pollution and Environmental Protection: Storm Water Management.

The City Council of The City of Minneapolis do ordain as follows:

Section 1. That Section 54.90 (d) of the above-entitled ordinance be amended to read as follows: **54.90.** Responsibility following construction/completion.

(d) Annual site registration. Any person(s), organization, company, group, or any other entity, public or private, in control of storm water management devices installed under this ordinance or existing prior to this ordinance shall register that site annually with the assistant city coordinator of regulatory services, remit an annual registration fee at the rate as established in Appendix J. License Fees Schedule per storm water management device. Submission and payment confirm that the site's storm water management devices have been inspected, maintained and are functioning satisfactorily. The annual fee shall be due and payable on December 31 January 31st of each year. If registration is not received or postmarked on or before December 31 January 31st of each year, the applicant shall pay double the late fees provided for such registration. Failure to obtain the appropriate permit prior to discharging will result in a doubling of fees. Each day of failure to maintain or obtain registration may constitute a separate violation of this Code.

Adopted 3/6/2009.

Absent - Benson.

PS&RS - Your Committee recommends passage of the accompanying resolution granting Beer Licenses.

Adopted 3/6/2009.

Absent - Benson.

Resolution 2009R-075, granting Beer Licenses, was adopted 3/6/2009 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

RESOLUTION 2009R-075 By Samuels

Granting Beer Licenses.

Resolved by The City Council of The City of Minneapolis:

That the following applications for beer licenses be granted, subject to final inspection and compliance with all provisions of applicable codes and ordinances (Petn No 273321):

Temporary On-Sale Beer

Hale/Field Foundation, 4645 4th Av S (March 14, 2009, 4:00 p.m. to 11:00 p.m. at St. Joan of Arc Church, 4537 3rd Av S)

Club Run, 901 3rd St N #414 (with temporary outdoor entertainment March 14, 2009, 10:00 a.m. to 1:00 p.m.).

Adopted 3/6/2009.

Absent - Benson.

PS&RS - Your Committee recommends passage of the accompanying resolution granting applications for Business Licenses.

Adopted 3/6/2009.

Absent - Benson.

Resolution 2009R-076, granting applications for Business Licenses, was adopted 3/6/2009 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

RESOLUTION 2009R-076 By Samuels

Granting applications for Business Licenses.

Resolved by The City Council of The City of Minneapolis:

That the following applications for business licenses (including provisional licenses) as per list on file and of record in the Office of the City Clerk under date of March 6, 2009 be granted, subject to final inspection and compliance with all provisions of the applicable codes and ordinances (Petn No 273321):

Car Wash; Dry Cleaning & Laundry Pickup Station; Food Manufacturer; Food Market Manufacturer; Restaurant; Short-Term Food Permit; Sidewalk Cafe; Liquid Waste Hauler; Motor Vehicle Repair Garage; Commercial Parking Lot Class A; Pet Shop; Plumber; Refrigeration Systems Installer; Rental Halls; Residential Specialty Contractor; Antique Dealer Class B; Sign Hanger; Steam & Hot Water Systems Installer; Taxicab Limited; Taxicab Service Company; Taxicab Vehicle-Fuel Efficient; Taxicab Vehicle-Wheelchair Access; Taxicab Vehicle; Taxicab Vehicle Non-Transferable; Taxicab Neighborhood Rideshare; Combined Trades; Tree Servicing; Wrecker of Building Class B.

Adopted 3/6/2009.

Absent - Benson.

PS&RS - Your Committee recommends passage of the accompanying resolution granting applications for Gambling Licenses.

Adopted 3/6/2009.

Absent - Benson.

Resolution 2009R-077, granting applications for Gambling Licenses, was adopted 3/6/2009 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

RESOLUTION 2009R-077 By Samuels

Granting applications for Gambling Licenses.

Resolved by The City Council of The City of Minneapolis:

That the following applications for gambling licenses be granted, subject to final inspection and compliance with all provisions of applicable codes and ordinances (Petn No 273321):

Gambling Class B

Brass Rail, dba The Aliveness Project, 422 Hennepin Av (Brass Rail, 422 Hennepin)

Gambling Exempt

MN Du Special Events, dba MN Du Special Events, 10602 Washington Blvd NE, Blaine (Raffle March 12 – 15, 2009 at Minneapolis Convention Center)

American Legion Post #1 Minneapolis, dba American Legion Post #1, 2507 E 25th St (Raffle March 28, 2009)

Minneapolis Jewish Day School, dba Minneapolis Jewish Day School, 4330 Cedar Lk Rd (Raffle March 29, 2009 at International Market Square)

The Childrens Theatre Company, dba The Childrens Theatre Company, 2400 3rd Av S (Raffle June 7, 2009 at Childrens Theatre Company).

Adopted 3/6/2009.

Absent - Benson.

PS&RS—Your Committee, to whom was referred back by the Council on February 20, 2009 a report relating to appointments to the Housing Board of Appeals, now recommends concurrence with the City Council to reappoint the following persons to serve for two-year terms to expire December 31, 2011:

Reappointments

Beth Hart, Ward 9, public member

Sandy Loescher, Ward 5, public member

Kristen Denzer, Ward 12, public member

Lauren Maker, Ward 4, public member

Matthew Knopp, Ward 10, public member

Anne Gilbertson-Seeling, Ward 1, public member

Steven Leventhal, Ward 6, public member

JoAnn Velde, Director of Inspections designee

Bryan Tyner, Fire Department designee

Ruth Kildow, Environmental Health designee

Geri Meyer, Community Planning & Economic Development designee (ex officio)

Lee Wolf, City Attorney's Office (ex officio).

Adopted 3/6/2009.

Absent - Benson.

PS&RS – Your Committee, having under consideration the property located at 2426 Plymouth Av N; and the Inspections Division having determined that the property meets the definition of a nuisance under the meaning of Chapter 249 of the Minneapolis Code of Ordinances by issuing a notice of the Director's Order to Demolish the property; and a hearing having been held by the Nuisance Condition Process Review Panel on January 8, 2009, now recommends concurrence with the recommendation of the Panel to uphold the staff recommendation to demolish the property, and approval of the Findings of Fact, Conclusions and Recommendations, which are on file in the Office of the City Clerk and hereby made a part of this report by reference.

Adopted 3/6/2009.

Absent - Benson.

PS&RS – Your Committee, having under consideration the property located at 2321 Fremont Av N; and the Inspections Division having determined that the property meets the definition of a nuisance under the meaning of Chapter 249 of the Minneapolis Code of Ordinances by issuing a notice of the Director's Order to Demolish the property; and hearings having been held by the Nuisance Condition Process Review Panel on September 25, 2008 and January 8, 2009, now recommends concurrence with the recommendation of the Panel to uphold the staff recommendation to demolish the property, and approval of the Findings of Fact, Conclusions and Recommendations, which are on file in the Office of the City Clerk and hereby made a part of this report by reference.

Adopted 3/6/2009.

Absent - Benson.

PS&RS – Your Committee, having under consideration the Rental Dwelling License held by Pedro Llivichuzca for the property located at

828 22nd Av NE, now recommends concurrence with the recommendation of the Director of Inspections that said license be revoked for failure to comply with the requirements of Sections 244.1918 (8) and 244.2000 (c) of the Minneapolis Code of Ordinances relating to required inspections, as more fully set forth in the Findings of Fact, Conclusions and Recommendation on file in the Office of the City Clerk, which is hereby made a part of this report by reference.

Adopted 3/6/2009.

Absent - Benson.

The PUBLIC SAFETY & REGULATORY SERVICES and WAYS & MEANS/BUDGET Committees submitted the following reports:

PS&RS & W&M/Budget – Your Committee, to whom was referred back from the Council on January 9, 2009 an ordinance amending Title 9, Chapter 174 of the Minneapolis Code of Ordinances relating to *Fire and Police Protection: Minneapolis Fire Department; Fire Prevention Bureau*, authorizing and establishing a commercial building registration program, now recommends that said ordinance be **sent forward without recommendation**.

Your Committee further recommends that the following staff direction be **sent forward without recommendation**:

The Minneapolis Fire Department will work with the Minnesota Insurance Board to see if commercial building inspections conducted by the Minneapolis Fire Department will be accepted by insurance companies as sufficient proof of inspection for their purposes.

Samuels moved that the report be amended by deleting the language "sent forward without recommendation" and inserting in lieu thereof "given its second reading for amendment and passage", and that the staff direction be "adopted". Seconded.

Adopted by unanimous consent.

Absent - Benson.

Glidden moved that Section 174.440 of the ordinance be amended by revising Table A to read as follows:

Size of Commercial Building	Fee
0 - 5,000	<u>\$50.00</u>
<u>5,001 – 10,000</u>	<u>\$94.00</u>
<u>10,001 – 100,000</u>	\$277.00
100,001 - 250,000 square feet	\$403.00
250,001 - 1,000,000 square feet	\$620.00
1,000,001 - 2,000,000 square feet	\$827.00
2,000,001 square feet and over	\$910.00
Late Fee (Over 30 days)	Add 25%

Seconded.

Adopted 3/6/2009.

Absent - Benson.

The report, as amended, was adopted 3/6/2009.

Yeas, 9; Nays, 3 as follows:

Yeas - Lilligren, Glidden, Remington, Goodman, Hodges, Samuels, Hofstede, Ostrow, Johnson.

Nays - Colvin Roy, Gordon, Schiff.

Absent - Benson.

Ordinance 2009-Or-020 amending Title 9, Chapter 174 of the Minneapolis Code of Ordinances relating to *Fire and Police Protection: Minneapolis Fire Department; Fire Prevention Bureau*, adding a new Article IV to include Sections 174.400 through 174.440 to authorize and establish a commercial building registration program, was adopted 3/6/2009 by the City Council. A complete copy of this ordinance is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized ordinance.

ORDINANCE 2009-Or-020
By Ostrow
Intro & 1st Reading: 10/15/2008
Ref to: PS&RS
2nd Reading: 3/6/2009

Amending Title 9, Chapter 174 of the Minneapolis Code of Ordinances relating to the Fire and Police Protection: Minneapolis Fire Department; Fire Prevention Bureau.

The City Council of The City of Minneapolis do ordain as follows:

Section 1. That Chapter 174 of the Minneapolis Code of Ordinances be amended by adding thereto a new Article IV, including new Sections 174.400 – 174.440 to read as follows:

ARTICLE IV. COMMERCIAL BUILDING REGISTRATION REQUIREMENTS

- **174.400.** Commercial building defined. Commercial building is defined as any building subject to the requirements of the building and fire codes approved for an occupancy use other than residential occupancy. For those buildings with mixed occupancy uses inclusive of residential occupancy, the provisions of this article shall apply to the non-residential occupancy portions of such buildings.
- **174.410.** Certificate of registration required. The owner of any commercial building shall obtain an annual renewable certificate of registration indicating that the building and its associated uses and occupancies are in compliance with all requirements of the fire code. No building, or portion of a building upon the judgment of the fire marshal, shall continue to be occupied without such valid certificate of registration after a reasonable time, as fixed by written order of the fire marshal pursuant to section 174.430(3).
- 174.420. Issuance of certificate of registration. The certificate of registration required pursuant to this article shall be issued after inspection by the fire marshal or the fire marshal's designee reveals that the use and occupancy of the commercial building is in conformity with the Minnesota State Fire Code. The owner and occupants of any commercial building shall cooperate in facilitating any inspections required pursuant to this article and reinspection fees may be charged pursuant to section 1.120 of this Code for any required reinspection finding noncompliance conducted after the due date for compliance with a duly-issued order. The certificate of registration required pursuant to this article shall be required one (1) year after the initial occupancy of any commercial building and annually thereafter, and shall be required annually for any existing commercial building. The certificate of registration shall contain the following information:
 - (1) The building certificate number.
 - (2) The address of the building.
 - (3) The name and address of the owner.
 - (4) A description of that portion of the building for which the certificate is issued.
- (5) A statement that the described portion of the building has been inspected for compliance with the requirements of the fire code for the group and division of occupancy and the use for which the occupancy is classified.
 - (6) The name of the building contact or official.
- **174.430.** Renewal required. For every commercial building governed by this article, a periodic inspection shall be scheduled by the fire marshal. When the results of such inspection shall show that the commercial building fails in any respect to comply with the provisions of the fire code, the fire marshal shall notify the owner to this effect and specify wherein such commercial building fails to comply with the requirements of the provisions of the fire code. The fire marshal shall take the necessary action to secure compliance with the provisions of the fire code, so that no immediate hazard to health or safety of the occupants or public is allowed to continue.
- (1) Temporary certificate. If the fire marshal finds that no substantial hazard will result from occupancy of any commercial building or portion thereof before any required code compliance is completed, a temporary certificate of registration may be issued for the portion or portions of a commercial building prior to the completion of any required code compliance by the entire commercial building.
- (2) Posting. The certificate of registration shall be posted in a conspicuous place on the premises and shall not be removed except by the fire marshal.
- (3) Denial, suspension and revocation. The fire marshal may, in writing, suspend or revoke a certificate of registration issued under the provisions of this article whenever the certificate is issued in error, or on the basis of incorrect information supplied, or when it is determined that the commercial building or portion thereof is in violation of any ordinance or regulation or any of the provisions of this Code. Whenever a certificate of registration is denied, suspended or revoked, the fire marshal shall notify the owner or operator of the commercial building in writing. The notice shall be served upon the owner or operator of the commercial building in person or by first class mail and it shall inform the owner

or operator of the right, within twenty (20) days after the date of the notice to request an appeal of the denial, suspension or revocation to the fire code appeals board. If an appeal is timely received the hearing before the fire code appeals board shall take place within a reasonable period thereafter.

174.440. Fee. The annual fee for the issuance of a commercial building certificate of registration shall be as specified in Table A as applicable.

TABLE A

Size of Commercial Building	Fee
0 - 5,000	\$50.00
5,001 – 10,000	\$94.00
10,001 – 100,000	\$277.00
100,001 – 250,000 square feet	\$403.00
250,001 – 1,000,000 square feet	\$620.00
1,000,001 – 2,000,000 square feet	\$827.00
2,000,001 square feet and over	\$910.00
Late Fee (Over 30 days)	Add 25%

Adopted 3/6/2009.

Yeas, 9; Nays, 3 as follows:

Yeas-Lilligren, Glidden, Remington, Goodman, Hodges, Samuels, Hofstede, Ostrow, Johnson.

Nays - Colvin Roy, Gordon, Schiff.

Absent - Benson.

PS&RS & W&M/Budget - Your Committee recommends that the proper City officers be authorized to execute a contract with Ramsey County Public Health, in an amount up to \$320,000, to provide Metropolitan Medical Response System (MMRS) program administration to coordinate the development and implementation of the MMRS program.

Adopted 3/6/2009.

Absent - Benson.

PS&RS & W&M/Budget - Your Committee, having under consideration the ongoing efforts of emergency preparedness, now recommends that the proper City officers be authorized to accept an Emergency Management Performance Grant (EMPG) as a pass through from Hennepin County, in the amount of \$49,463.17 and a grant from Target Corporation, in the amount of \$1,000. Further, passage of the accompanying resolution appropriating \$50,463.17 to the Department of Regulatory Services.

Adopted 3/6/2009.

Absent - Benson.

RESOLUTION 2009R-078 By Samuels and Ostrow

Amending The 2009 General Appropriation Resolution.

Resolved by The City Council of The City of Minneapolis:

That the above-entitled Resolution, as amended, be further amended by increasing the appropriation for the Department of Regulatory Services Agency in the Grants – Federal Fund (01300-8352000) by \$50,463.17 and increasing the revenue estimate (01300-8352000) by \$50,463.17.

Adopted 3/6/2009.

Absent - Benson.

The TRANSPORTATION & PUBLIC WORKS Committee submitted the following reports:

T&PW - Your Committee, to whom was referred the following ordinances amending Title 17 of the Minneapolis Code of Ordinances relating to *Streets and Sidewalks*, to reflect existing City practices

MARCH 6, 2009

related to the oversight and control of repairs and improvements in the public right-of-way, now recommends that said ordinances be given their second reading for amendment and passage:

- a) Chapter 429 relating to Right-of-Way Administration; and
- b) Chapter 430 relating to Right-of-Way Permits.

Adopted 3/6/2009.

Absent - Benson.

Ordinance 2009-Or-021, amending Title 17, Chapter 429 of the Minneapolis Code of Ordinances relating to *Streets and Sidewalks: Right-of-Way Administration*, amending Sections 429.10, 429.20, and 429.90 to reflect existing City practices related to oversight and control of repairs and improvements in the public right-of-way, was adopted 3/6/2009 by the City Council. A complete copy of this ordinance is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized ordinance.

ORDINANCE 2009-Or-021
By Colvin Roy
Intro & 1st Reading: 2/6/2009
Ref to: T&PW
2nd Reading: 3/6/2009

Amending Title 17, Chapter 429 of the Minneapolis Code of Ordinances relating to Streets and Sidewalks: Right-of-Way Administration.

The City Council of The City of Minneapolis do ordain as follows:

Section 1. That Section 429.10 of the above-entitled ordinance be amended to read as follows: **429.10. Findings and purpose**. In order to provide for the health, safety and well-being of its citizens, as well as to insure the structural integrity of its streets and the use of the public rights-of-way, the city strives to keep its public rights-of-way in a state of good repair and free from unnecessary encumbrances. Although the general population bears the financial burden for the upkeep of the public rights-of-way, a primary cause for the early and excessive deterioration of its public rights-of-way is their frequent excavation by persons whose equipment or facilities are located therein as well as patching and restoration activities by persons undertaking adjacent construction activities.

Public right-of-way obstruction is a source of frustration for merchants, business owners and the general population which must avoid these obstructions or change travel plans because of them. Persons whose equipment or facilities are located within the public right-of-way are the primary cause of these frequent obstructions.

The city recognizes that it holds the public rights-of-way within its geographical boundaries as an asset in trust for its citizens. The city and other public entities have invested millions of dollars in public funds to build and maintain the public right-of-way. It also recognizes that some persons, by placing their equipment or facilities in the public right-of-way and charging the citizens of the city for goods and services delivered thereby, are using this property held for the public good. Although such services are often necessary or convenient for the citizens, such persons receive revenue and/or profit through their use of public property.

In response to the foregoing facts, the city hereby enacts new Chapters 429 and 430 of the Minneapolis Code of Ordinances relating to right-of-way permits and administration, together with an ordinance making necessary revisions to other Code provisions. These ordinances impose reasonable regulations on the placement and maintenance of equipment or facilities currently within its public rights-of-way or to be placed therein at some future time. Under these ordinances, persons disturbing and obstructing the public rights-of-way will bear a fair share of the financial responsibility for their integrity. Finally, these ordinances provide for recovery of out-of-pocket and projected costs from persons using the public rights-of-way.

Section 2. That Section 429.20 of the above-entitled ordinance be amended to read as follows: **429.20. Definitions**. The following definitions apply in both Chapters 429 and 430 of the Minneapolis Code of Ordinances, (hereafter, "Chapters 429 and 430" or "these ordinances"). References hereafter to "sections" are, unless otherwise specified, references to sections in the Minneapolis Code of Ordinances. Defined terms remain defined terms whether or not capitalized.

Abandoned facility means a facility, no longer in service or physically disconnected from a portion of the operating facility, or from any other facility, that is in use or still carries service. A facility is not abandoned unless declared so by the right-of-way user.

Applicant means any person requesting permission to excavate, <u>disturb</u> or obstruct a right-of-way. City means the City of Minneapolis, Minnesota.

City management cost means the actual costs incurred by the city for public rights-of-way management; including but not limited to costs associated with registering applicants; issuing, processing, and verifying right-of-way permit applications; creating information and maintaining information on a Geographical Information System ("GIS") mapping system; inspecting job sites and restoration projects; maintaining, supporting, protecting, or moving user equipment or facilities during public right-of-way work; determining the adequacy of right-of-way restoration; restoring work inadequately performed after providing notice and the opportunity to correct the work; and revoking right-of-way permits and performing all of the other tasks required by Chapters 429 and 430, including other costs the city may incur in managing the provisions of this chapter.

City engineer means the city engineer—director of the department of public works of the city, or the city engineer's designee.

Congested right-of-way means a crowded condition in the subsurface of the public right-of-way that occurs when the maximum lateral spacing between existing underground facilities does not allow for construction of new underground facilities without using hand digging to expose the existing lateral facilities in conformance with Minnesota Statutes, Section 216D.04, Subd. 3, over a continuous length in excess of five hundred (500) feet.

Construction performance bond security means any of the following forms of security provided at the permittee's city engineer's option:

- (1) Individual project bond.
- (2) Cash deposit.
- (3) Security, of a form listed or approved under Minnesota Statutes, Section 15.73, Subd. 3.
- (4) Letter of credit, in a form acceptable to the city.
- (5) Self-insurance, in a form acceptable to the engineer.
- (6) A blanket bond for projects within the city, or other form of construction bond, for a time specified and in a form acceptable to the city.

Degradation means a decrease in the useful life of the right-of-way caused by excavation in or disturbance of the right-of-way, resulting in the need to reconstruct such right-of-way earlier than would be required if the excavation did not occur.

Degradation cost means the cost to achieve a level of restoration as determined by the city engineer at the time the permit is issued,. When applicable, the cost may not to-exceed the maximum restoration shown in plates 1 to 13, which are set forth in parts 7819.9900 to 7819.9950.

Degradation fee means the estimated fee established at the time of permitting by the city engineer to recover costs associated with the decrease in the useful life of the right-of-way caused by the excavation, and which equals the degradation cost.

Delay penalty is the penalty imposed as a result of unreasonable delays in right-of-way excavation, obstruction, patching, or restoration as established by permit.

Disruptive cost is the penalty imposed as the result of the adverse impact on city citizens and others who are required to alter travel routes and times resulting from right-of-way obstructions. When applied to utility services, the disruptive cost is the delay penalty.

Downtown business district means that portion of the City of Minneapolis lying within and bounded by the following: On the east by the Mississippi River and Interstate 35W; on the south and west by Interstate 94; and on the north by Plymouth Avenue North.

Emergency means a condition that poses a clear and immediate danger to life or health, or of a significant loss of property, or requires immediate repair or replacement in order to restore service to a customer.

Equipment means any tangible asset used to install, repair, or maintain facilities in any right-of-way.

Excavate or excavation means to dig into or in any way remove or physically disturb or penetrate any part of a right-of-way.

Excavation permit means the permit which, pursuant to Chapters 429 and 430, must be obtained before a person may excavate a right-of-way. An excavation permit allows the holder to excavate that part of the right-of-way described in such permit.

Excavation permit fee means money paid to the city by an applicant to cover the costs as provided in Chapter 430.

Facility or facilities means any tangible asset in the right-of-way.

Five-year project plan shows projects adopted by the city for construction within the next five (5) years.

High-density corridor means a designated portion of the public right-of-way within which telecommunications right-of-way users having multiple and competing facilities may be required to build and install facilities in a common conduit system or other common structure.

Local representative means the person or persons, or designee of such person or persons, authorized by a registrant to accept service and to make decisions for that registrant regarding all matters within the scope of Chapters 429 and 430.

Minnesota Rules means Minnesota Rules as published by the Revisor of Statutes as they existed on June 1, 1999 whether or not they are currently in force.

Obstruct means to place any tangible object in a right-of-way so as to hinder free and open passage over that or any part of the right-of-way.

Obstruction permit means the permit which, pursuant to Chapters 429 and 430, must be obtained before a person may obstruct a right-of-way.

Obstruction permit fee means money paid to the city by a permittee to cover the costs as provided in Chapter 430.

Patch or patching means a method of pavement replacement that is temporary in nature. A patch consists of:

- (1) The compaction of the subbase and aggregate base.
- (2) The replacement, in kind, of the existing pavement for a minimum of two (2) feet beyond the edges of the excavation in all directions.

A patch is considered full restoration only when the pavement is included in the city's five (5) year project plan.

Pavement means any type of improved surface that is within the public right-of-way and that is paved or otherwise constructed with bituminous, concrete, aggregate, or gravel.

Permittee means any person to whom a permit to excavate or obstruct a right-of-way has been granted by the city under Chapter 429 or 430.

Person means an individual or entity, subject to the laws and rules of this state, however organized, whether public or private, whether domestic or foreign, whether for profit or nonprofit, and whether natural, corporate, or political.

Examples include:

- a. A business or commercial enterprise organized as any type or combination of corporation, limited liability company, partnership, limited liability partnership, proprietorship, association, cooperative, joint venture, carrier or utility, and any successor or assignee of any of them.
- b. A social or charitable organization.
- c. Any type or combination of political subdivision, which includes the executive, judicial, or legislative branch of the state, a local government unit, or a combination of any of them.

Probation means the status of a person that has not complied with the conditions of Chapters 429 and 430.

Probationary period means one year from the date that a person has been notified in writing that they have been put on probation.

Registrant means any person who:

- (1) Has or seeks to have its equipment or facilities located in any right-of-way, or
- (2) In any way occupies or uses, or seeks to occupy or use, the right-of-way or any equipment or facilities located in the right-of-way.

Registration fee means money paid to the city to cover the cost associated with registration.

Restore or restoration means the process by which an excavated right-of-way and surrounding area, including pavement and foundation, is returned to the same condition that existed before excavation.

Restoration cost means the amount of money paid to the city by a permittee to cover the cost of restoration.

Right-of-way or public right-of-way means the area in, on, below, or above a public roadway, highway, street, cartway, bicycle lane and public sidewalk in which the city has an interest, including other dedicated rights-of-way for travel purposes and utility easements of the city. A right-of-way does not include the airwaves above a right-of-way with regard to cellular or other nonwire telecommunications or broadcast service.

Right-of-way permit means either the excavation permit or the obstruction permit, or both, depending on the context, required by Chapters 429 and 430.

Right-of-way user means:

- (1) A telecommunications right-of-way user as defined by Minnesota Statutes, Section 237.162, Subd. 4; or
- (2) A person owning or controlling a facility in the public right-of-way that is used or is intended to be used for providing utility service and who has a right under law, franchise, or ordinance to use the public right-of-way.

Service or utility service includes:

- (1) Those services provided by a public utility as defined in Minnesota Statutes 216B.02, Subds. 4 and 6.
- (2) Services of a telecommunications right-of-way user, including transporting of voice or data information.
- (3) Services of a cable communications system as defined in Minnesota Statutes Chapter 238.
- (4) Natural gas or electric energy or telecommunications services provided by the city.
- (5) Services provided by a cooperative electric association organized under Minnesota Statutes, Chapter 308A.
- (6) Water, sewer, steam, cooling or heating services.

Supplementary application means an application made to excavate or obstruct more of the right-of-way than allowed in, or to extend, a permit that had already been issued.

Section 3. That Section 429.90 of the above-entitled ordinance be amended to read as follows:

429.90. Mapping data. Pursuant to the authority of Minnesota Rules, Part 7819.4000 and 7819.4100, each registrant and permittee shall provide mapping information as required by this chapter, when applicable to utility services.

Within six (6) months of the acquisition, installation, or construction of additional equipment or any relocation, abandonment, or disuse of existing equipment, each registrant shall supplement the mapping information required herein.

A person wishing to undertake a project within the public right-of-way shall submit a right-of-way permit application which contains the following information:

- (1) Location and approximate depth of applicant's mains, cables, conduits, switches, and related equipment and facilities, with the location based on:
 - a. Offsets from property lines, distances from the centerline of public right-of-way, and the curb lines as determined by the city engineer.
 - b. Coordinates derived from the coordinate system being used by the city engineer.
 - c. Any other system agreed upon by the right-of-way user and the city engineer.
- (2) The type and size of the utility facilities.
- (3) A description showing above ground appurtenances.
- (4) A legend explaining symbols, character, abbreviations, scale and other data shown on the map.
- (5) Any facilities to be abandoned, if applicable, in conformance with Minnesota Statutes, Section 216D.04, Subd. 3.

The permittee shall submit "as built" drawings reflecting any subsequent changes and variations from the information provided under this section.

The right-of-way user is not required to provide or convey mapping information or data in a format or manner that is different from that which it currently utilizes and maintains. The right-of-way user shall, however, include the cost to convert the data furnished by the right-of-way user to a format currently in use by the city engineer as part of the permit application fee. These data conversion costs, unlike other costs that make up permit fees, may be included in the permit fee after the permit application process is completed and shall be immediately due to the city upon the ascertainment of the cost and notice of the fee to the applicant. Any permit for which such fee has not been paid within thirty (30) days of notice from the city engineer may upon written notice be revoked. The city engineer shall not issue any other permits to the registrant related to any city right-of-way until such fee is paid.

At the request of the city engineer, a right-of-way user shall provide existing data on its existing facilities within the public right-of-way in the form maintained by the user at the time the request was made, if available.

At the request of any registrant, any information requested by the city engineer which qualifies as a "trade-secret" under Minnesota Statutes, Section 13.37(b) shall be treated as trade secret information as detailed therein.

Adopted 3/6/2009.

Absent - Benson.

Ordinance 2009-Or-022, amending Title 17, Chapter 430 of the Minneapolis Code of Ordinances relating to *Streets and Sidewalks: Right-of-Way Permits*, amending Sections 430.40, 430.65, 430.70, 430.120, 430.130, and 430.160 to reflect existing City practices related to oversight and control of repairs and improvements in the public right-of-way, was adopted 3/6/2009 by the City Council. A complete copy of this ordinance is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized ordinance.

ORDINANCE 2009-Or-022
By Colvin Roy
Intro & 1st Reading: 2/6/2009
Ref to: T&PW
2nd Reading: 3/6/2009

Amending Title 17, Chapter 430 of the Minneapolis Code of Ordinances relating to Streets and Sidewalks: Right-of-Way Permits.

The City Council of The City of Minneapolis do ordain as follows:

Section 1. That Section 430.40 of the above-entitled ordinance be amended to read as follows: **430.40. Permit applications.** Application for a permit is made to the city engineer.

Right-of-way permit applications shall contain, and will be considered complete only upon compliance with the requirements of the following provisions:

- (1) Registration with the city engineer pursuant to Chapter 429.
- (2) Submission of a completed permit application form, including all required attachments, and scaled drawings showing the location and area of the proposed project and the location of all existing and proposed facilities when applicable.
- (3) Payment of all money due to the city for:
 - a. Permit fees and costs.
 - b. Prior obstructions or excavations.
 - c. Any loss, damage, or expense suffered by the city as a result of applicant's prior excavations or obstructions of the rights-of-way or any emergency actions taken by the city.
- (4) The posting of a construction performance bond security.

Section 2. That Section 430.65 of the above-entitled ordinance be amended to read as follows:

430.65. Delay Penalty. In accordance with Minnesota Rules, Section 7819.1000 Subd.3, tThe city engineer shall impose a delay penalty for unreasonable delays in the right-of-way excavation, obstruction, patching, or restoration. The delay penalty shall be proposed by the city engineer and as

established from time to time by city council resolution, and shall be in accordance with Minnesota Rules, Section 7819.1000, Subd. 3, when applicable.

Section 3. That Section 430.70 of the above-entitled ordinance be amended to read as follows: 430.70. Right-of-way patching and restoration. The work to be done under the excavation permit, and the patching and restoration of the right-of-way as required herein, must be completed within the dates specified in the permit, increased by as many days as work could not be done because of circumstances beyond the control of permittee or when work was prohibited as unseasonable or unreasonable under this chapter. In addition to patching its own work, the permittee must restore the general area of the work, and the surrounding areas, including the paving and its foundations, to the same condition that existed before the commencement of the work and must inspect the area of the work. The permitee must ensure compliance with this section by inspecting the area of the work before commencement and following completion of all work performed under the permit.

In its application for an excavation permit, the permittee may choose indicate a preference either to have the city restore the right-of-way or to restore the right-of-way itself, except for the final pavement surface for which. the city retains the right of first refusal for the all or any portion of restoration work within the right-of-way.

- (1) City restoration. If the permittee chooses to have the city restores all or any portion of the right-of-way, permittee shall pay the costs thereof within thirty (30) days of billing. If, following such restoration, the pavement settles due to permittee's improper backfilling, the permittee shall pay to the city, within thirty (30) days of billing, all costs associated with correcting the defective work.
- (2) Permittee restoration. If the city foregoes its right of first refusal under this section and the permittee restores all or any portion of the right-of-way itself, except for the final pavement surface, it permittee shall at the time of application of an excavation permit post-a construction performance bond security. If, following such restoration by permittee, the pavement settles due to defective work, the permittee shall pay to the city, within thirty (30) days of billing, all costs associated with correcting the defective work.

The permittee shall When performing any excavations, patching and restoration work in the right of-way, the permittee shall act according to the standards of and with shall utilize the materials specified by the city engineer. The city engineer shall have the authority to prescribe the manner and extent of the restoration, and may do so in written procedures of general application or on a case-by-case basis. The city engineer in exercising this authority shall be guided by Minnesota Rule 7819.1100 when applicable.

Methods of restoration may include, but are not limited to, patching, replacement of the right-of-way base, and milling and overlay of the entire area of the right-of-way affected by the work.

The permittee shall correct defects in patching or restoration performed by the permittee or its agents upon notification from the city engineer, and correct all restoration work to the extent necessary using the method required by the city engineer. Said work shall be completed within five (5) calendar days of the receipt of the notice from the city engineer, not including days during which work cannot be done because of circumstances constituting force majeure or days when work was prohibited as unseasonable or unreasonable pursuant to chapter 429 and 430.

If the permittee fails to restore the right-of-way in the manner and to the condition required by the city engineer, or fails to satisfactorily and timely complete all restorations required by the city engineer, the city engineer, at his or her option, may do such work at the expense of permittee and/or the city engineer may pursue collection of any construction security required under this chapter. In that event, the permittee shall pay to the city, within thirty (30) days of billing, the cost of restoring the right-of-way.

In lieu of right-of-way restoration the city engineer shall may impose a degradation fee. However, the right-of-way user shall remain responsible for patching, and the degradation fee shall not include the cost to accomplish these responsibilities.

Section 4. That Section 430.120 of the above-entitled ordinance be amended to read as follows: **430.120. Installation requirements**. The excavation, backfilling, patching restoration, and all other work performed in the right-of-way shall be done in conformance with specifications as promulgated by the city engineer, Minnesota Rules 7819.1100 and 7819.5000 when applicable, and at a location required by this code.

Section 5. That Section 430.130 of the above-entitled ordinance be amended to read as follows: **430.130. Inspection**. When the work under any permit hereunder is completed, the permittee, as authorized by Minnesota Rules Part 7819.1300, shall submit a completion certificate to the city engineer at the time the project is completed, including any and all testing results and supporting documents generated to meet the requirements of restoration established by the city engineer. The completion statement, signed by a person designated by the right-of-way user as a responsible employee, shall show the completion date for the work performed, identify the installer and designer of record, and certify that the work was completed according to the requirements of the city engineer.

Permittee shall make the work site available to the city engineer and to all others as authorized by law for inspection at all reasonable times during the execution and upon completion of the work.

At the time of inspection, the city engineer may order the immediate cessation of any work which poses a serious threat to the life, health, safety or well-being of the public.

The city engineer may issue an order to the permittee for any work that does not conform to the applicable standards, conditions or codes. The order shall state that failure to correct the violation will be cause for revocation of the permit. Within ten (10) days after issuance of the order, the permittee shall present proof to the city engineer that the violation has been corrected. If such proof has not been presented within the required time, the city engineer may revoke the permit.

Section 6. That Section 430.160 of the above-entitled ordinance be amended to read as follows: **430.160.** Revocation of permits. Registrants hold permits issued pursuant to the Code as a privilege and not as a right. The city reserves its right, as provided herein, to revoke any right-of-way permit, without fee refund, in the event of a substantial breach of the terms and conditions of any statute, ordinance, rule or regulation, or any condition of the permit. A substantial breach by permittee shall include, but shall not be limited to, the following:

- (1) The violation of any material provision of the right-of-way permit;
- (2) An evasion or attempt to evade any material provision of the right-of-way permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the city or its citizens;
 - (3) Any material misrepresentation of fact in the application for a right-of-way permit;
 - (4) The failure to maintain the required bonds construction security and/or insurance;
 - (5) The failure to complete the work in a timely manner; or
 - (6) The failure to correct a condition indicated on an order issued pursuant to this Chapter.

If the city engineer determines that the permittee has committed a substantial breach of a term or condition of any statute, ordinance, rule, regulation or any condition of the permit the city engineer shall make a written demand upon the permittee to remedy such violation. The demand shall state that continued violations may be cause for revocation of the permit. Further, a substantial breach, as stated above, will allow the city engineer, at the city engineer's discretion, to place additional or revised conditions on the permit.

Within twenty-four (24) hours of receiving notification of the breach, permittee shall contact the city engineer with a plan, acceptable to the city engineer, for its correction. Permittee's failure to so contact the city engineer, or the permittee's failure to submit an acceptable plan, or permittee's failure to reasonably implement the approved plan, shall be cause for immediate revocation of the permit. Further, permittee's failure to so contact the city engineer, or the permittee's failure to submit an acceptable plan, or permittee's failure to implement the approved plan, shall automatically place the permittee on probation for one full year.

From time to time, the city engineer may establish a list of conditions of the permit, if breached will automatically place the permittee on probation for one full year, such as, but not limited to, working out of the allotted time period or working on right-of-way grossly outside of the permit.

If a permittee, while on probation, commits a breach as outlined above, permittee's permit will automatically be revoked and permittee will not be allowed further permits for one full year, except for emergency repairs.

If a permit is revoked, the permittee shall also reimburse the city for the city's reasonable costs, including restoration costs and the costs of collection and reasonable attorneys' fees incurred in connection with such revocation.

Adopted 3/6/2009.

Absent - Benson.

T&PW - Your Committee recommends that the proper City officers be authorized to execute lease documents allowing the owners of the following properties to use of a portion of unimproved public right-of-way adjacent to their property for tenant parking:

8th St SE; Shelby Jackson, et al, Lease (\$1,350 and \$225 annually): This lease is for two areas of the same street. Shelby Jackson will lease 3 parking stalls for the property at 1611 8th St SE and Gopher Alley/Smails Rental LLC's will lease 18 stalls for the property at 801 16th Ave SE.

19th Ave S; Riverview Towers Lease (\$2,000 annually): This lease is for approximately 32 parking spaces located within a portion of 19th Ave S, north of 1st St N. As a direct result of the I-35W Bridge collapse, the State Transportation Department took control of the lands north of the street and incorporated them into the new bridge landscape design. Consequently, the City and Flatiron Construction reached an agreement to rebuild the former roadway into a parking area for visitor parking which benefits the abutting Riverview Towers Condominium. The parking lot was constructed at no cost to the City and Riverview Towers will not be charging any fees for parking.

2nd St N; Colonial Warehouse Lease Renewal (\$200 monthly): This lease, originally executed in 1997 and renewed in 2003, is for 6 parking stalls beneath the 2nd St N Bridge where it crosses the BNSF trackage north of Washington Ave N. This lease was intended to expire this year once the area beneath the bridge was utilized for construction of the Cedar Lake Trail. The trail construction will commence later this year and the tenant would like to continue the lease until the actual construction activity begins. The new month-to-month lease will have a 30-day termination clause.

Adopted 3/6/2009.

Absent - Benson.

T&PW - Your Committee, having under consideration the Cedar Lake Trail Phase III Project, now recommends passage of the accompanying resolution authorizing an agreement with the Hennepin County Regional Railroad Authority (HCRRA) for the acquisition of permanent and temporary easements for transportation purposes, and authorizing the use of eminent domain proceedings.

Goodman moved to amend the resolution by substituting a new Exhibit A in order to provide updated legal descriptions of the parcels involved. Seconded.

Adopted upon a voice vote.

Absent - Benson.

The report was adopted 3/6/2009.

Absent - Benson.

Resolution 2009R-079, approving an agreement with the Hennepin County Regional Railroad Authority ("HCRRA") for the acquisition of permanent and temporary easements for transportation purposes, and authorizing use of eminent domain proceeding, was adopted 3/6/2009 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

RESOLUTION 2009R-079 By Colvin Roy

Approving an agreement with the Hennepin County Regional Railroad Authority ("HCRRA") for the acquisition of permanent and temporary easements for transportation purposes, and authorizing use of eminent domain proceeding.

Whereas, the City of Minneapolis (the "City") completed Phase I and Phase II of the Cedar Lake Trail between the West City limits and Royalston Avenue in 1995; and

Whereas, extension of the Cedar Lake Trail from Royalston Avenue to the Mississippi River ("Cedar Lake Trail Phase III a/k/a Cedar Lake Bike Trail Phase III") is a high priority for the City of Minneapolis ("City") and its residents; and

Whereas, in a Council action on December 17, 1999, the City Council authorized the City to enter into two easements for the Cedar Lake Bike Trail Phase III; and

Whereas, in a Council action on March 2, 2001, the City Council authorized the Director of Public Works to develop a temporary bike route plan for Cedar Lake Trail Phase III due to construction delays caused by other projects in the area; and

Whereas, in 2001, the City Council adopted Resolution No 2001R-147, amending the 2001 Capital Improvement Appropriation Resolution, which included an increase to the budget for the Cedar Lake Bike Trail of \$300,000 with the revenue source being the settlement from the Federal Reserve Bank Project Tax Increment Financing District for the off-site public improvements; and

Whereas, in a Council action on August 24, 2001, the City Council authorized the proper City officers to apply for a series of federal funds (TEA-21) including \$2,160,000 for Cedar Lake Bike Trail Phase III; and

Whereas, in a Council action on September 28, 2001, the City Council authorized the expenditure of \$40,000 from the Commuter Bike Fund System (4100-943-9470-Project A7002990) for a temporary bike lanes alignment for the Cedar Lake Trail Phase III; and

Whereas, in 2004, the City Council adopted Resolution No 2004R-580, approving the 2005-2009 Five Year Capital Budget, which included an appropriation of \$2,160,000 for the Cedar Lake Trail Phase III Project with the revenue source being the Federal Government; and

Whereas, in 2005, the City Council adopted Resolution No 2005R-075, supporting the completion of the Cedar Lake Bike Trail to the Mississippi River; and

Whereas, in 2005, the City Council adopted Resolution No 2005R-661, requesting the issuance and sale of bonds including the Cedar Lake Bike Phase III Project; and

Whereas, in 2005, the City Council adopted Resolution No 2005R-658, 2006-2010 Five Year Capital Budget which included an appropriation of \$583,000 for the Cedar Lake Bike Phase III Project with the revenue source being Net Debt Bonds; and

Whereas, on November 17, 2006, the City Council authorized execution of Metropolitan Council Grant Agreement No SG-2006-145 in the amount of \$1,800,000 for the Cedar Lake Trail Phase III Project; and

Whereas, in 2006, the City Council adopted Resolution No 2006R-584, appropriation increase to PW-Fund (0600-943-9480) by \$1,800,000 and increasing the revenue source (0600-943-9480-3215) by \$1,800,000; and increasing the appropriation in PW-Fund (4100-943-9470-BIKOI) by \$1,800,000 and increasing the revenue source (4100-943-9470-3215) by \$1,800,000; and

Whereas, in a Council action on December 22, 2006, the City Council authorized the proper City officers to enter into negotiations with abutting owners for the acquisition of trail easements; and

Whereas, on March 9, 2007, the City Council authorized the acquisition by negotiation or condemnation of permanent and temporary trail easements encumbering the real estate described in Exhibit A attached hereto and incorporated herein for completion of the Cedar Lake Trail Phase III Project; and

Whereas, the region is currently constructing the first phase of the Downtown Minneapolis Intermodal Station (the "Intermodal Station"), which will provide a seamless connection between the Hiawatha and Central Light Rail Transit lines and the Northstar Commuter Rail line; and

Whereas, HCRRA's long-term transit vision for the region includes future phases of the Intermodal Station to accommodate additional Light Rail Transit lines (Southwest and Bottineau), additional Commuter Rail lines (Red Rock, Norwood/Young America, and Bethel/Cambridge), the Northern Lights Express Intercity Passenger Rail (Minneapolis to Duluth), and High Speed Rail from Chicago; and

Whereas, it is necessary for the City to commence construction of the Cedar Lake Trail Phase III in 2009 in order to meet state and federal funding deadlines and its obligations under an agreement with the Minnesota Department of Transportation, the Northstar Corridor Development Authority and the Metropolitan Council; and

Whereas, construction of the Cedar Lake Trail Phase III requires that the City secure a use permit to permit construction of the trail on four parcels owned by HCRRA; and

Whereas, development of additional phases of the Intermodal Station will greatly benefit the City, Hennepin County, and the entire metropolitan region; and

Whereas, the City and HCRRA wish to coordinate the Cedar Lake Trail Phase III Project and future rail projects in the area between North 5th Street and Washington Avenue to ensure timely and successful implementation of both projects; and

Whereas, the City has begun the right-of-way acquisition process for the Cedar Lake Trail Phase III Project, including an approximately 12 foot trail easement parallel to the property secured for the Northstar project between North 5th Street and Washington Avenue in the vicinity of where the Northstar Commuter Rail Line and the Hiawatha Light Rail Line connect, and where several other rail transit lines currently under study will converge at an intermodal station; and

Whereas, staging options for the ultimate build out of the Intermodal Station will be further developed after completion of Phase 2 of the Downtown Minneapolis Intermodal Station Study in late 2009/early 2010; and

Whereas, if the full Intermodal Station is to be constructed in the future, it is likely to occupy at least a portion of the area being acquired for the Cedar Lake Trail Phase III project; and

Whereas, the City Council finds that Parcels 14 and 15 described in <u>Exhibit A</u> attached hereto ("Parcels 14 and 15") are needed for the Cedar Lake Trail Phase III Project for reasons of cost effectiveness and efficiency and to ensure that Parcels 14 and 15 will remain free from encroachments by structures and available for other foreseeable future uses, it is necessary, desirable, convenient, and for a public purpose to secure permanent easements encumbering Parcels 14 and 15 for transportation purposes and related facilities, including, without limitation, rail, bus, bicycle, road and foot travel, the location of utility and communication facilities, including fiber optic lines, and for other future transportation and public facilities, and temporary easements for construction of the Cedar Lake Trail over Parcels 14 and 15, including by use of eminent domain proceedings, if necessary; and

Whereas, based upon evidence presented by HCRRA, the City finds that acquisition of such transportation easements encumbering Parcels 14 and 15 is necessary for transportation uses, serves a public purpose, and is consistent with the use of the Cedar Lake Trail until such time as rail improvements and/or other public facilities are constructed within the right-of-way; and

Whereas, a portion of the Cedar Lake Trail may need to be moved in the future in order to facilitate the development of the Intermodal Station or other transportation or public facilities; and

Whereas, City staff has been unable to acquire permanent and temporary trail easements burdening Parcel 18 described on <u>Exhibit A</u> attached hereto and such easements are necessary and convenient to enable the City to complete construction and enable use of the Cedar Lake Trail Phase III Project;

Now, Therefore, Be It Resolved by The City Council of The City of Minneapolis:

That the Director of Public Works is authorized and directed to negotiate an agreement with the Hennepin County Regional Railroad Authority (HCRRA) that provides for the acquisition of permanent and temporary easements burdening Parcels 14 and 15 for transportation purposes and related facilities, including, without limitation, bus, bicycle, road and foot travel, the location of utility and communication facilities, including fiber optics lines, and other transportation and public facilities, and is consistent with the terms outlined below:

- 1. The City will endeavor to secure permanent and temporary easements for transportation purposes (as defined above) with HCRRA paying the increased damages and legal costs which the City incurs due to taking such a transportation easement rather than only a trail easement in favor of the City.
- 2. The City and HCRRA will jointly pursue federal and state funding of the planning, design, acquisition, construction, and administrative costs related to modifying the trail to accommodate transit or other transportation or public use of a portion of Parcels 14 and 15 to be acquired for the Cedar Lake Trail Phase III Project pursuant to this resolution and will share equally in paying any relocation costs not covered by federal and state funding.
- 3. The City will actively assist the Intermodal Station project by determining the proper ultimate trail location in cooperation with other stakeholders and will negotiate with the developer(s) of the North 5th Street to Washington properties to accommodate relocation of the Cedar Lake Trail as part of the development of the latter properties.

- 4. The long term plan for the Cedar Lake Trail will be formally communicated by City and HCRRA staff to the Cedar Lake Park Association in early 2009 to clarify that the location of the trail will need to be modified if ultimate rail development is achieved.
- 5. The City will facilitate conversations between HCRRA and the Federal Reserve Bank of Minneapolis regarding their respective easement and related property concerns.
- 6. HCRRA will grant the City permits to authorize construction, operation and maintenance of the Cedar Lake Trail on HCRRA property (4 parcels) between Royalston Avenue and the Mississippi.
- 7. The feasibility of future train storage on the eastern portion of Linden Yards and the City Impound Lot will be studied in coming months with the intent of negotiating an agreement for sale of part of the City site to HCRRA for such purpose.

Be It Further Resolved that following review and approval by the City Attorney's Office, the appropriate City officer(s) be authorized to sign the agreement.

Be It Further Resolved as follows:

- 1. If the Director of Public Works is unable to acquire permanent and temporary easements encumbering Parcels 14 and 15 for transportation and related facilities, including, without limitation, rail, bus, bicycle, road, and foot travel, the location of utility and communication facilities, including fiber optic lines, and other future transportation and public facilities, and permanent and temporary easements encumbering Parcel 18 for trail purposes, upon terms acceptable to the City, the City Attorney and outside counsel retained by the City are hereby authorized and directed to initiate and complete eminent domain proceedings to acquire such easements, and to use the quick take provisions of Minn. Stat. § 117.042 to acquire title and possession of such easements prior to the filling of the Court Appointed Commissioners' report of damages caused by the taking.

 2. With the assistance of the reports of independent real estate appraisers secured on behalf of the City, the Director of Public Works is hereby authorized to determine the amount of the City's offer of compensation to the owners prior to the filling of condemnation and the approved appraisal of damages to be paid or deposited by the City pursuant to Minn. Stat. § 117.042.
- 3. Acquisition of such permanent and temporary easements is hereby determined to be necessary and convenient and for a public purpose.

EXHIBIT 1 Revised by WJC 3-04-2009

PARCEL 14

Land Partners II, LLLP
408 Fourth Avenue North
(Between 5th St. N. & 4th St. N.)
Property Tax Identification Nos.:
22-029-24-42-0110; 22-029-24-42-0111;
22-029-24-42-0112; 22-029-24-42-0113
(Certificate of Title No. 737144)

A permanent easement for transportation purposes and related facilities, including, without limitation, rail, bus, bicycle, road and foot travel, the location of utility and communication facilities, including fiber optic lines, and for other future transportation and public facilities over, under and across that part of Section 22, Township 29, Range 24, part of Blocks 4, 5, 9, 85, HOAG'S ADDITION TO MINNEAPOLIS, part of vacate5th and 6th Streets North, and part of vacated 4th Avenue North, formerly Dacota Street, all described as follows:

Beginning at the intersection of a line drawn parallel with and 25 feet Southeasterly from the centerline of the East bound track of the Burlington Northern Railroad and a line drawn 43 feet Northeasterly from and concentric with a curve, hereinafter referred to a Curve "A", described as commencing at a point on the centerline of 2nd Avenue North distant 12.15 feet Northeasterly from its intersection with the centerline of 7th Street North; thence Northwesterly, deflecting 88 degrees 00 minutes 48 seconds, measured from Northeast to Northwest, from said centerline of 2nd Avenue North, a distance of 849.63 feet to the actual point of beginning of said Curve "A", thence Northwesterly 295.14 feet along a tangential curve concave to the Southwest, having a radius of 11,459.16 feet and a central angle of 01 degree 28 minutes 32 seconds and said Curve "A" there terminating; thence Southeasterly along said

line drawn concentric with said Curve "A" to its intersection with a radial line drawn Northeasterly passing through the point of beginning of said Curve "A"; thence Southeasterly tangent to said line drawn concentric with Curve "A" to the following described Line "A",

Line "A" is described as commencing at the most Southerly corner of the Northeasterly 210 feet of said Block 4; thence Northwesterly along the Southwesterly line of said Northeasterly 210 feet a distance of 258.36 feet; thence Southwesterly, deflecting to the left 83 degrees 51 minutes 10 seconds 105.6 feet, being the actual point of beginning of said Line "A"; thence Southwesterly, deflecting to the left 06 degrees 06 minutes 50 seconds to the Northeasterly line of said vacated 6th Street North; thence Southwesterly deflecting to the right 17 degrees 29 minutes 10 seconds to the Southwesterly line of said vacated 6th Street North; thence Southwesterly, deflecting to the left 02 degrees 54 minutes 44 seconds a distance of 156.74 feet to a point hereinafter referred to as Point "A", thence Southwesterly 5.49 feet along a non-tangential curve concave to the Northwest, having a radius of 5,779.58 feet and a chord which deflects 10 degrees 13 minutes 52 seconds to the left, from the last described line; thence Southwesterly, deflecting to the right 08 degrees 01 minutes 42 seconds from the chord of the last-described curve, a distance of 235 feet and said Line "A" there terminating.

Thence Northeasterly along said Line "A" to said Point "A"; thence Northeasterly along a curve concave to the Northwest, having a radius of 5,779.58 feet to a point on said Southwesterly line of said vacated 6th Street North distant 30 feet Northwesterly from its intersection with said Line "A"; thence Southeasterly along said Southwesterly line of vacated 6th Street North to said Line "A"; thence Northeasterly along said Line "A" to the point of beginning of said Line "A"; thence Northeasterly to a point on the Northeasterly line of said Block 4 distant 268.14 feet Northwesterly from the most Easterly corner of said Block 4; thence Northeasterly to a point on the Southwesterly line of said Block 85 distant 267.56 feet Northwesterly from the most Southerly corner of said Block 85; thence Northeasterly to a point on the Northeasterly line of said Block 85 distant 265.87 feet Northwesterly from the most Easterly corner of said Block 85; thence Northwesterly along the last-described Northeasterly line to the most Northerly corner of said Block 85; thence Northwesterly to the most Easterly corner of said Block 9; thence Northwesterly along the Northeasterly line of said Block 9 to said line drawn parallel with and 25 feet Southeasterly from the centerline of the East bound track of the Burlington Northern Railroad; thence Southwesterly along the last-described parallel line to the point of beginning.

Being registered land as evidenced by Certificate of Title No. 1056073.

Which lies northeasterly of the following described line:

Beginning at the most westerly corner of said Block 9; thence southeasterly along the southwesterly line of said Block 9 to the most southerly corner of said Block 9; thence southeasterly to the most westerly corner of said Block 85; thence southeasterly along the southwesterly line of said Block 85 to the most southerly corner of said Block 85 and said line there terminating.

Said permanent easement lies 9.00 feet northwesterly of and 14.00 feet southeasterly of the following described line: Commencing at the most southerly corner of said Block 9; thence on an assumed bearing of North 45 degrees 00 minutes 09 seconds West, along the southwesterly line of said Block 9, a distance of 17.00 feet to the point of beginning of the line to be described; thence North 45 degrees 03 minutes 49 seconds East a distance of 134.75 feet and said line there terminating.

TOGETHER with a permanent easement for transportation purposes and related facilities, including, without limitation, rail, bus, bicycle, road and foot travel, the location of utility and communication facilities, including fiber optic lines, and for other future transportation and public facilities, over under and across the above described property. Said easement lies 9.00 feet northwesterly of and 15.00 feet southeasterly of the following described line;

Beginning at the terminus of the above described line; thence North 45 degrees 03 minutes 49 seconds East, along the prolongation of the above line a distance of 139.84 feet; thence northeasterly on a tangential curve concave to the northwest, said curve having a radius of 1015.00 feet and a central angle of 01 degrees 08 minutes 45 seconds for a distance of 20.30 feet; thence North 43 degrees 55 minutes 05 seconds East, tangent to said curve, a distance of 29.86 feet; thence northeasterly along a tangential curve concave to the southeast, said curve having a radius of 1000.00 feet and central angle of 00 degrees 53 minutes 16 seconds for a distance of 15.50 feet to the northeasterly line of said Block 9 and said described line there terminating.

MARCH 6, 2009

Together with a temporary 21.00 foot easement for construction purposes lying southeasterly of and adjoining said permanent easement.

Said temporary easement to expire on: December 31, 2010

The sidelines of said easements should be prolonged or shortened to intersect said southwesterly line and its southeasterly extension and said northeasterly line and its southeasterly extension of said Block 9.

PARCEL 15

Duddy Limited Partnership
328 North Fourth Street
Property Identification No. 22-029-24-13-0110
333 Washington Avenue North
Property Identification No. 22-029-24-42-0098
Abstract and Torrens
(Certificate of Title No. 1032399)
Duddy Limited Partnership

(Abandoned Fourth Street North - abstract)

A permanent easement for transportation purposes and related facilities, including, without limitation, rail, bus, bicycle, road and foot travel, the location of utility and communication facilities, including fiber optic lines, and for other future transportation and public facilities over, under and across that part of the Southwesterly half of abandoned Fourth Street North which is adjacent to Blocks 9 and 85, HOAG'S ADDITION TO MINNEAPOLIS, Hennepin County, Minnesota, which lies northwesterly of the following described line:

Beginning at a point on the Northeasterly line of said Block 85 distant 265.87 feet Northwesterly of the most Easterly corner of said Block 85; thence Northeasterly along an extension of a line drawn from the last described point to a point on the Southwesterly line of said Block 85, distant 267.56 feet Northwesterly from the most Southerly corner of said Block 85 to the centerline of abandoned Fourth Street North and said line there terminating.

and lying Southeasterly of the following described line:

Beginning at the point of intersection of the Northeasterly line of said Block 9 and a line which is parallel with and 25 feet Southeasterly of the centerline of the Eastbound main track of the Burlington Northern Railroad, said point of beginning being 64.72 feet Northwesterly of the most Easterly corner of said Block 9; thence Northeasterly along said line which is parallel with and 25 feet Southeasterly of the centerline of the Eastbound main track to a point on the Southwesterly line of Block 10, HOAG'S ADDITION TO MINNEAPOLIS, distant 64.63 feet Northwesterly of the most Southerly corner thereof and said line there terminating.

And, that part of the Northeasterly half of abandoned Fourth Street North, which is adjacent to Blocks 10 and 58, HOAG'S ADDITION TO MINNEAPOLIS, Hennepin County, Minnesota, and which lies Northwesterly of the following described line:

Beginning at a point on the Southwesterly line of Block 58, HOAG'S ADDITION TO MINNEAPOLIS, said point distant 293.10 feet Northwesterly of the most Southerly corner of said Block 58; thence Southwesterly along an extension of a line drawn from the last described point to a point on the Northwesterly extension of the Northeasterly line of said Block 58, distant 290.15 feet Northwesterly from the most Easterly corner of said Block 58 to the centerline of Fourth Street North and said line there terminating.

and lying Southeasterly of the following described line:

Beginning at the point of intersection of the Northeasterly line of said Block 9 and a line which is parallel with and 25 feet Southeasterly of the centerline of the Eastbound main track of the Burlington Northern Railroad, said point of beginning being 64.72 feet Northwesterly of the most Easterly corner of said Block 9; thence Northeasterly along said line which is parallel with and 25 feet Southeasterly of the centerline of the Eastbound main track to a point on the Southwesterly line of Block 10, HOAG'S ADDITION TO MINNEAPOLIS, distant 64.63 feet Northwesterly of the most Southerly corner thereof and said line there terminating.

Said permanent transportation easement is lying 9.00 feet northwesterly of and 15.00 southeasterly of the following line: Commencing at the most Easterly corner of said Block 9; thence on an assumed bearing of North 45 degrees 01 minutes 36 seconds West, along the northeasterly line of said Block 9, a distance of 17.89 feet to the point of beginning of the line to be described; thence northeasterly along a non-tangential curve concave to the southeast, said curve having a radius of 1000.00, a central angle of 00 degrees 15 minutes 28 seconds and a chord bearing of North 44 degrees 56 minutes 05 seconds East for a distance of 4.50 feet; thence North 45 degrees 03 minutes 49 seconds East, tangent to said curve, a distance of 77.95 feet to the Southwesterly line of said Block 10 and said line there terminating.

Together with a 21.00 foot wide temporary easement for construction purposes that lies southeasterly of and adjoining said permanent easement.

Said temporary easement to expire on: December 31, 2010

The sidelines of said easements should be prolonged or shortened to intersect said northeasterly line of Block 9 and its southeasterly extension and said southwesterly line of Block 10 and its southeasterly extension.

Duddy Limited Partnership

(abandoned Fourth Street North to Washington - Torrens)

A permanent easement for transportation purposes and related facilities, including, without limitation, rail, bus, bicycle, road and foot travel, the location of utility and communication facilities, including fiber optic lines, and for other future transportation and public facilities over, under and across those portions of Blocks 10, 57 and 58, HOAG'S ADDITION TO MINNEAPOLIS; and those portions of Blocks 57 and 58, TOWN OF MINNEAPOLIS; and those portions of Blocks 19, 21 and 22 in BRADFORD AND LEWIS ADDITION TO MINNEAPOLIS; together with those portions of abandoned alleys, abandoned Fourth Avenue North and abandoned Third Street North all described as follows:

Lot 3, said Block 57; Lot 6, said Block 10, all in HOAG'S ADDITION TO MINNEAPOLIS;

Those portions of Lots 4 and 5, said Block 10, lying Southeasterly of a line drawn parallel with and 25 feet Southeasterly of the East Bound track of the Burlington Northern Railroad, which lies Southwesterly from the Northeasterly right-of-way of Interstate Highway No. 94;

The Northwesterly 62 feet of said Block 58, the Southeasterly line of said Northwesterly 62 feet is prolonged to terminate on the Northeasterly line of said Block 58; That part of Lot 10, Block 58, TOWN OF MINNEAPOLIS, shown as Block 21 in the plat of BRADFORD AND LEWIS ADDITION TOMINNEAPOLIS;

Together with that part of said abandoned Fourth Avenue North lying between a line drawn northerly from the most Northerly corner of said Block 21, to the most easterly corner of said Block 19 and the Northeasterly right-of-way line of Interstate Highway No. 94;

Lots 1, 3 and 10; that part of Lot 2 lying Southeasterly of the Northwesterly 23.3 feet of said Lot 2; that part of Lot 9 lying Southeasterly of the Northwesterly 22 feet of said Lot 9, all in said Block 57, TOWN OF MINNEAPOLIS;

Those portions of Lots 2, 15 and 16, Block 22, Bradford and Lewis Addition to Minneapolis and that part of said Lot 5, Block 19, HOAG'S ADDITION TO MINNEAPOLIS lying Northeasterly of the Northeasterly right-of-way line of Interstate Highway No. 94, together with that part of adjoining abandoned alleys in said Blocks 10 and 22, all which lie Southeasterly of a line hereinafter referred to as "Line A" and described as follows:

Beginning at a point on the Southwesterly line of said Block 10, distant 29.27 feet Northwesterly from the most Southerly corner of said Block 10; thence Northeasterly along a straight line to a point in the Southwesterly line of said Block 22, distant 107.48 feet Northwesterly from the most Southerly corner of said Block 22; thence Northeasterly along the prolongation of the last described line 105.27 feet; thence Northeasterly along a non-tangential curve concave to the South having a radius of 1875.86 feet, the chord of said curve is measured 13 degrees 24 minutes 52 seconds to the right from said prolongation of the last described line to the Northeasterly line of said Block 22 and said "Line A" there terminating.

Lot 12, Block 19; Lot 1, Block 22; all in BRADFORD AND LEWIS ADDITION TO MINNEAPOLIS;

That part of abandoned Third Street North lying between "Line A" and a line described as beginning at the most Southerly corner of Lot 1, Block 57, TOWN OF MINNEAPOLIS; thence along the Southwesterly extension of the Southeasterly line of said Lot 1 to the center line of said street; thence Northwesterly along said center line to the Northeasterly prolongation of a line drawn Northeasterly from a point on the Southwesterly line of Block 58, HOAG'S ADDITION TO MINNEAPOLIS distant 293.1 feet Northwesterly from the most Southerly corner of said Block 58 to a point on the Northwesterly extension of the Northeasterly line of said Block 58 distant 290.15 feet Northwesterly from the most Easterly corner of said Block 58; thence Southwesterly along the last described line to said Northwesterly extension and there terminating;

Together with that part of said abandoned Third Street North lying Northeasterly of the center line of said street which lies between the Southwesterly extension of the Southeasterly line of the Northwesterly 23.3 feet of Lot 2, said Block 57 and the Southwesterly extension of the Southeasterly line of Lot 3, Block 57, TOWN OF MINNEAPOLIS to said center line and there terminating.

That part of Northeasterly half of the abandoned alley in Block 57, TOWN OF MINNEAPOLIS lying Northwesterly of the Southwesterly extension of the Southeasterly line of the Northwesterly 22 feet of Lot 9, in said Block 57, together with that part of the Southwesterly half of said abandoned alley lying Northwesterly of the Northeasterly extension of the Southeasterly line of the Northwesterly 23.3 feet of Lot 2, said Block 57.

Being registered land as evidenced by Certificate of Title No. 1032399.

Said permanent easement is lying 9.00 feet northwesterly of and 15.00 feet southeasterly of the following described line: Commencing at the most southerly corner of said Block 10; thence North 45 degrees 01 minutes 39 seconds West, assumed bearing along the southwesterly line of said Block 10, a distance of 17.87 feet to the point of beginning of the line to be described; thence North 45 degrees 03 minutes 49 seconds East a distance of 88.06 feet; thence northeasterly along a tangential curve concave to the southeast having a radius of 1000.00 feet and a central angle of 01 degrees 08 minutes 45 seconds for a distance of 20.00 feet; thence North 46 degrees 12 minutes 34 seconds East, tangent to said curve a distance of 29.86 feet; thence northeasterly along a tangential curve concave to the northwest having a radius of 1015.00 feet and a central angle of 01 degrees 08 minutes 45 seconds for a distance of 20.30 feet; thence North 45 degrees 03 minutes 49 seconds East, tangent to last described curve, a distance of 33.84 feet and there terminating.

TOGETHER with a permanent transportation easement, over, under and across that part of the above described property which lies 9.00 feet northwesterly of and 14.00 feet southeasterly of the following described line: Beginning at the terminus of the above described line; thence North 45 degrees 03 minutes 49 seconds East, along the prolongation of the above described line, a distance of 366.56 feet; thence northeasterly along a tangential curve concave to the southeast having a radius of 550.00 feet and a central angle of 18 degrees 33 minutes 00 seconds for a distance of 178.07 feet; thence North 63 degrees 36 minutes 51 seconds East a distance of 30.17 feet to the northeasterly line of said Block 22 and said line there terminating.

Together with a 21.00 foot wide temporary easement for construction purposes lying southeasterly of and adjoining said permanent easement.

Said temporary easement to expire on: December 31, 2010

The sidelines of said easements should be prolonged or shortened to intersect said Southwesterly line of Block 10 and its southeasterly extension and said Northeasterly line of Block 22 and its southeasterly extension.

PARCEL 18

Best Price Properties, Inc. 326 Washington Avenue North Property Identification No. 22-029-24-13-0126

A permanent easement for trail purposes over, under and across that portion of Block 33, Town of Minneapolis, Minnesota together with the 16.0 foot wide alley within said Block, described as follows:

Beginning at the most Westerly corner of said Block 33; thence Northeasterly along the Northwesterly line thereof a distance of 120.00 feet; thence Northeasterly along a straight line to a point on the Northeasterly line of said Block 33 distant 75.0 feet Southeasterly of the most Northerly corner of said Block 33, as measured along the Northeasterly line thereof; thence Southeasterly along said Northeasterly line a distance of 15.00 feet to a line drawn parallel with and distant 24.00 feet Southeasterly of, as measured at right angles to, the Northwesterly line of Lot 9, said Block 33; thence Southwesterly parallel with the Northwesterly line of said Lot 9 to a point on the Southwesterly line of said Block 33; thence Northwesterly along said Southwesterly line to the point of beginning. Excepting therefrom: That portion of Block 33, Town of Minneapolis, Minnesota together with the 16.0 foot wide alley within said Block, described as follows:

Commencing at the most Westerly corner of said Block 33; thence Northeasterly along the Northwesterly line thereof a distance of 120.00 feet to the True Point of Beginning of the parcel to be described; thence Northeasterly along a straight line to a point on the Northeasterly line of said Block 33 distant 75.0 feet Southeasterly of the most Northerly corner of said Block 33, as measured along the Northeasterly line thereof; thence Southeasterly along said Northeasterly line a distance of 13.55 feet; thence Southwesterly along a straight line to the point of intersection with said Northwesterly line of Block 33 distant 80.66 feet Northeasterly from the most Westerly corner of Block 33, thence Northeasterly along said Northwesterly line to the True Point of Beginning.

AND

All that portion of Lots 2 and 9, Block 33, TOWN OF MINNEAPOLIS, Hennepin County, Minnesotalying between two lines drawn parallel with and distant respectively 24 feet and 39 feet Southerly of the Northwesterly line of said lots.

Said permanent easement lies 10.00 feet on both sides of the following described line: Commencing at the most Westerly Corner of said Block 33; thence on an assumed bearing North 44 degrees 35 minutes 51 seconds East, along the Northwesterly line of said Block 33, a distance of 66.11 feet to the point of beginning; thence North 63 degrees 36 minutes 51 seconds East a distance of 195.22 feet; thence Northeasterly along a tangential curve concave to the southeast having a radius of 15,000.00 feet and a central angle of 00 degrees 12 minutes 27 seconds for a distance of 54.30 feet; thence North 63 degrees 49 minutes 17 seconds East, tangent to said curve, for a distance of 41.63 feet to the Northeasterly line of said Block 33 and said line there terminating.

Together with a temporary easement for construction purposes that lies 6.50 feet southerly of and adjoining said permanent easement.

The side lines of said easements should be prolonged or shortened to intersect the Northwesterly and Northeasterly lines of said Block 33.

Said temporary easement will expire on: December 31, 2010.

Adopted 3/6/2009.

Absent - Benson.

T&PW - Your Committee recommends passage of the accompanying resolution designating the locations and streets to be improved in the Lynnhurst (Phase V) Street Renovation Project, Special Improvement of Existing Street No 5198.

Adopted 3/6/2009.

Absent - Benson.

Resolution 2009R-080, designating the locations and streets to be improved in the Lynnhurst (Phase V) Street Renovation Project, Special Improvement of Existing Street No 5198, was adopted 3/6/2009 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

RESOLUTION 2009R-080 By Colvin Roy

LYNNHURST (PHASE V) STREET RENOVATION PROJECT SPECIAL IMPROVEMENT OF EXISTING STREET NO 5198

Designating the improvement of certain existing streets at the locations described hereinafter.

Resolved by The City Council of The City of Minneapolis:

That the following existing streets within the City of Minneapolis are hereby designated to be improved, pursuant to the provisions of Chapter 10, Section 8 of the Minneapolis City Charter, by mill and overlay of street surface with plant mix asphalt with selected concrete curb and gutter, and including other paving related improvements as needed:

51st St W from Upton to Penn Aves S;

52nd St W from Upton to Penn Aves S;

Thomas, Sheridan, and Queen Aves S from 50th St W to 52nd St W; and

Russell Ave S from 50th St W to its terminus in a cul-de-sac south of 52nd St W.

Adopted 3/6/2009.

Absent - Benson.

T&PW - Your Committee, having received a cost estimate of \$1,459,000 for street renovation improvements and a list of benefited properties for certain locations in the Lynnhurst (Phase V) Street Renovation Project, Special Improvement of Existing Street No 5198, as designated by Resolution 2009R-080 passed March 6, 2009, now recommends that the City Engineer be directed to prepare a proposed Street Renovation Special Improvement Assessment against the list of benefited properties by applying the 2009 Uniform Assessment Rates as per Resolution 2008R-571, passed December 12, 2008.

Your Committee further recommends that the City Clerk be directed to give notice of a public hearing to be held by the Transportation and Public Works Committee on March 31, 2009 in accordance with Chapter 10, Section 8 of the Minneapolis City Charter and Section 24.180 of the Minneapolis Code of Ordinances, to consider approving the renovation of the above-designated street locations, and to consider the amount proposed to be assessed to each benefited property and the amount to be funded by the City.

Adopted 3/6/2009.

Absent - Benson.

T&PW - Your Committee recommends passage of the accompanying resolution designating the locations and streets to be improved in the 2009 Resurfacing Program, Oak Hill Area (West Half) Street Resurfacing Project, Special Improvement of Existing Street No 5193.

Adopted 3/6/2009.

Absent - Benson.

Resolution 2009R-081, designating the locations and streets to be improved in the 2009 Resurfacing Program, Oak Hill Area (West Half) Street Resurfacing Project, Special Improvement of Existing Street No 5193, was adopted 3/6/2009 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

RESOLUTION 2009R-081 By Colvin Roy

2009 STREET RESURFACING PROGRAM OAK HILL AREA (WEST HALF) STREET RESURFACING PROJECT SPECIAL IMPROVEMENT OF EXISTING STREET NO 5193

Designating the improvement of certain existing streets in the 2009 Street Resurfacing Program at the locations described hereinafter.

Resolved by The City Council of The City of Minneapolis:

That the following existing streets within the City of Minneapolis are hereby designated to be improved, pursuant to the provisions of Chapter 10, Section 8 of the Minneapolis City Charter, by asphalt mill and overlay and including other street resurfacing related improvements as needed.

Oak Hill Area (5193):

Garfield Ave S from 53rd St W to 59th St W;

Harriet Ave S from Minnehaha Parkway to 61st St W;

Grand and Pleasant Aves S from Minnehaha Parkway to 60th St W;

53rd St W from Lyndale Ave S to Harriet Ave S:

55th, 56th, 57th, 58th, 59th and 60th Sts W from Lyndale Ave S to Pillsbury Ave S;

59th St W from Aldrich Ave S to Lyndale Ave S;

59 1/2 St W from Grand Ave S to Pillsbury Ave S; and

Aldrich Ave S from Hwy 121 to 59th St W.

Adopted 3/6/2009.

Absent - Benson.

T&PW - Your Committee, having received a cost estimate of \$1,103,739 for street resurfacing improvements and a list of benefited properties for certain locations in the Oak Hill Area Street Resurfacing Project, Special Improvement of Existing Street No 5193, as designated by Resolution 2009R-081 passed March 6, 2009, now recommends that the City Engineer be directed to prepare a proposed Street Resurfacing Special Improvement Assessment against the list of benefited properties by applying the 2009 Uniform Assessment Rates as per Resolution 2008R-571, passed December 12, 2008.

Your Committee further recommends that the City Clerk be directed to give notice of a public hearing to be held by the Transportation and Public Works Committee on April 14, 2009 in accordance with Chapter 10, Section 8 of the Minneapolis City Charter and Section 24.180 of the Minneapolis Code of Ordinances, to consider approving the resurfacing of the above-designated street locations, and to consider the amount proposed to be assessed to each benefited property and the amount to be funded by the City.

Adopted 3/6/2009.

Absent - Benson.

T&PW - Your Committee recommends passage of the accompanying resolution designating the locations and streets to be improved in the 2009 Resurfacing Program, Thomas Ave North Street Resurfacing Project, Special Improvement of Existing Street No 5195.

Adopted 3/6/2009.

Absent - Benson.

Resolution 2009R-082, designating the locations and streets to be improved in the 2009 Resurfacing Program, Thomas Ave North Street Resurfacing Project, Special Improvement of Existing Street No 5195, was adopted 3/6/2009 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

RESOLUTION 2009R-082 By Colvin Roy

2009 STREET RESURFACING PROGRAM THOMAS AVE NORTH STREET RESURFACING PROJECT SPECIAL IMPROVEMENT OF EXISTING STREET NO 5195

Designating the improvement of certain existing streets in the 2009 Street Resurfacing Program at the locations described hereinafter.

Resolved by The City Council of The City of Minneapolis:

That the following existing streets within the City of Minneapolis are hereby designated to be improved, pursuant to the provisions of Chapter 10, Section 8 of the Minneapolis City Charter, by asphalt mill and overlay and including other street resurfacing related improvements as needed:

Thomas Ave N from Dowling Ave N to 42nd Ave N.

Adopted 3/6/2009.

Absent - Benson.

T&PW - Your Committee, having received a cost estimate of \$210,880 for street resurfacing improvements and a list of benefited properties for certain locations in the Thomas Ave N Street Resurfacing Project, Special Improvement of Existing Street No 5195 as designated by Resolution 2009R-082, passed March 6, 2009, now recommends that the City Engineer be directed to prepare a proposed Street Resurfacing Special Improvement Assessment against the list of benefited properties by applying the 2009 Uniform Assessment Rates as per Resolution 2008R-571, passed December 12, 2008.

Your Committee further recommends that the City Clerk be directed to give notice of a public hearing to be held by the Transportation and Public Works Committee on April 28, 2009 in accordance with Chapter 10, Section 8 of the Minneapolis City Charter and Section 24.180 of the Minneapolis Code of Ordinances, to consider approving the resurfacing of the above-designated street locations, and to consider the amount proposed to be assessed to each benefited property and the amount to be funded by the City.

Adopted 3/6/2009.

Absent - Benson.

T&PW - Your Committee recommends approval of the preliminary layout for the Lowry Avenue Bridge over the Mississippi River, between 2nd Street North on the west and Marshall Street on the east, as provided by Hennepin County. (Petn No 273330)

Hofstede moved that the report be amended by adding the following staff direction:

"Public Works staff is directed to encourage and assist Hennepin County in pursuing external funding for the Lowry Bridge Project to accelerate construction and minimize the time between project phases." Seconded.

Adopted by unanimous consent.

Absent - Benson.

The report, as amended, was adopted 3/6/2009.

Declining to vote - Hodges.

Absent - Benson.

The TRANSPORTATION & PUBLIC WORKS and WAYS & MEANS/BUDGET Committees submitted the following reports:

T&PW & W&M/Budget - Your Committee, having under consideration the Bloomington Ave S Street Resurfacing Project, Special Improvement of Existing Street No 5194, now recommends passage of the accompanying resolutions:

- a) Ordering the work to proceed and adopting the special assessments in the amount of \$91,939.88 for the project; and
- b) Requesting the Board of Estimate and Taxation to issue and sell City of Minneapolis bonds in the amount of \$91,935 for the purpose of paying the assessed cost of street improvements in the project.

Adopted 3/6/2009.

Absent - Benson.

Resolution 2009R-083, ordering the work to proceed and adopting the special assessments for the Bloomington Ave S Project, Special Improvement of Existing Street No 5194, was adopted 3/6/2009 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

RESOLUTION 2009R-083 By Colvin Roy and Ostrow

2009 STREET RESURFACING PROGRAM BLOOMINGTON AVE S STREET RESURFACING PROJECT SPECIAL IMPROVEMENT OF EXISTING STREET NO 5194

Ordering the work to proceed and adopting the special assessments for the Bloomington Ave S Project.

Whereas, public hearing was held on February 24, 2009 in accordance with Chapter 10, Section 8 of the Minneapolis City Charter and Section 24.180 of the Minneapolis Code of Ordinances to consider the proposed improvements as designated in Resolution 2009R-026, passed January 23, 2009 to consider the proposed special assessments as on file in the office of the City Clerk, and to consider all written and oral objections and statements regarding the proposed improvements and the proposed special assessments;

Now, Therefore, Be it Resolved by The City Council of The City of Minneapolis:

That the City Engineer is hereby ordered to proceed and do the work as designated in said Resolution 2009R-026, passed January 23, 2009.

Be It Further Resolved that the proposed special assessments in the total amount of \$91,939.88 for Bloomington Ave S as on file in the office of the City Clerk, be and hereby are adopted and assessed against the benefited properties.

Be It Further Resolved that the number of successive equal annual principal installments by which the special assessments of more than \$150 may be paid shall be fixed at five (5) and that the interest be charged at the same rate as the City pays in interest for selling assessment bonds, with collection of the special assessments to begin on the 2010 real estate tax statements.

Be It Further Resolved that the number of installments by which the special assessments of \$150 or less may be paid shall be fixed at one (1) and that interest be charged at the same rate as the City pays in interest for selling assessment bonds, with collection of the special assessments to begin on the 2010 real estate tax statements.

Adopted 3/6/2009.

Absent - Benson.

Resolution 2009R-084, requesting the Board of Estimate and Taxation to issue and sell City of Minneapolis bonds in the amount of \$91,935 for the purpose of paying the assessed cost of street improvements in the Bloomington Ave S Street Resurfacing Project, Special Improvement of Existing Street No 5194, was adopte 3/6/2009 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

RESOLUTION 2009R-084 By Colvin Roy and Ostrow

Requesting the Board of Estimate and Taxation to issue and sell City of Minneapolis bonds in the amount of \$91,935 for certain purposes other than the purchase of public utilities.

Resolved by The City Council of The City of Minneapolis:

That the Board of Estimate and Taxation be requested to incur indebtedness and issue and sell City of Minneapolis bonds for the purpose of paying the assessed cost of street improvements in the Bloomington Ave S Street Resurfacing Project, Special Improvement of Existing Street No 5194, to be assessed against benefited properties as estimated by the City Council, which assessments shall be collectible in five (5) successive annual installments, payable in the same manner as real estate taxes.

Adopted 3/6/2009.

Absent - Benson.

T&PW & W&M/Budget - Your Committee, having under consideration the City's lease of the Hamilton School Building (4119 Dupont Ave N) for the operations of the Police Department and Regulatory Services Department, with the staff recommendation that the proper City officers be authorized to reimburse the Minneapolis Public Schools in the amount of \$181,466.33 for an upgrade to the existing cooling systems, now recommends:

T&PW - Approval of said reimbursement. Further, that the proper City officers be authorized to negotiate a purchase price for the potential acquisition of 4119 Dupont Ave N.

W&M/Budget - Approval of said reimbursement. Further, that the proper City officers be authorized to determine a potential purchase price for the acquisition of 4119 Dupont Ave N.

Colvin Roy moved that the report be amended by approving the Ways & Means/Budget Committee recommendation and deleting the Transportation & Public Works Committee recommendation. Seconded.

Adopted by unanimous consent.

Absent - Benson.

The report, as amended, was adopted 3/6/2009.

Absent - Benson.

T&PW & W&M/Budget - Your Committee, having under consideration the extension of the Hiawatha LRT line along 5th St N from 1st Ave N to 6th Ave N as part of the Northstar Corridor project, now recommends:

- a) That the proper City officers be authorized to execute an agreement to accept funds in the amount of \$289,000 from Mtec Electric, Inc., to be used for signal controller work; and
- b) Passage of the accompanying resolution increasing the appropriation for the project by \$289,000, to be reimbursed by the Northstar Project.

Adopted 3/6/2009.

Absent - Benson.

RESOLUTION 2009R-085 By Colvin Roy and Ostrow

Amending The 2009 Capital Improvement Appropriation Resolution.

Resolved by The City Council of The City of Minneapolis:

That the above-entitled resolution, as amended, be further amended by increasing the appropriation for the Capital Projects Fund in the Capital Improvements Department (04100-9010000-CTR916) by \$289,000 to be reimbursed by the Northstar Project (04100-9010000-322502-CTR916).

Adopted 3/6/2009.

Absent - Benson.

T&PW & W&M/Budget - Your Committee, having under consideration an agreement with Mn/DOT (Contract C-23472) that the City perform utility relocations along 5th St N for the Northstar Corridor/LRT Extension Project, now recommends that the proper City officers be authorized to enter into Amendment #3 to the agreement increasing the contract amount by \$312,000, for a revised total of \$1,400,000, to allow for final reimbursement to the City for utility relocation costs.

Adopted 3/6/2009.

Absent - Benson.

T&PW & W&M/Budget - Your Committee recommends passage of the accompanying resolutions:

- a) Receiving and accepting the final costs of various Paving and Bridge Operations Projects and adjusting the capital appropriation as specified, thereby closing out the projects and reallocating excess revenue from the closed-out projects to other Paving and Bridge Operations Projects; and
- b) Requesting the concurrence of the Board of Estimate and Taxation in the reallocation of already issued Net Debt Bonds.

Adopted 3/6/2009.

Absent - Benson.

Resolution 2009R-086, receiving and accepting the final costs of various Paving and Bridge Operations work and adjusting the capital appropriation as necessary thereby closing the projects, was adopted 3/6/2009 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

RESOLUTION 2009R-086 By Colvin Roy and Ostrow

Receiving and accepting the final costs of various Paving and Bridge Operations work and adjusting the capital appropriation as necessary thereby closing the projects.

Resolved by The City Council of The City of Minneapolis:

That the final costs of all work described in the following Paving and Bridge Operations work be received and accepted for the total amount specified and that the capital appropriation be adjusted as specified thereby closing the projects:

- a) All paving operations work related to the Calhoun Commons project for a total of \$661,246.76. Paving operations capital appropriation for 04100-9010000 project CCALCM should be increased by \$22,161.76;
- b) All paving operations work related to the CSAH Outstanding project for a total of \$238,862.78. There is no remaining traffic operation capital appropriation for 04100-9010000 project C1CSAH;
- c) All paving operations work related to the West Broadway CSAH project for a total of \$1,270,672.50. Paving operations capital appropriation for 04100-9010000 project C20102PV should be decreased by \$136,075.90 and excess Net Debt Bonds shall be re-designated in the amount of \$136,075.90;
- d) All paving operations work related to the Mid-City Industrial project for a total of \$887,809.98. Paving operations capital appropriation for 04100-9010000 project CPV036 should be decreased by \$166,703.52 and excess Net Debt Bonds shall be re-designated in the amount of \$166,703.52;
- e) All paving operations work related to the Lynnhurst Renovation 2007 project for a total of \$2,121,206.07. There is no remaining paving operations capital appropriation for 04100-9010000 project CPV703PV;
- f) All paving operations work related to the Hiawatha Avenue (Phase V) 46th to Crosstown Highway project for a total of \$176,033.64. The paving operations capital appropriations for 04100-9010000 project C01071 should be decreased by \$408,966.36 and excess Net Debt Bonds shall be redesignated in the amount of \$180,390.25;

- g) All paving operations work related to the Lynnhurst Renovation 2006 project for a total of \$2,467,669.49. Paving operations capital appropriation for 04100-9010000 project CPV603PV should be increased by \$590.42;
- h) All paving operations work related to the University Avenue Northeast Mn/DOT project for a total of \$153,398.30. Paving operations capital appropriation for 04100-9010000 project C01031 should be decreased by \$96,601.70;
- i) All paving operations work related to the 2006 Parkway Paving project for a total of \$818,809.92. There is no remaining paving operations capital appropriation for 04100-9010000 project CPV601;
- j) All paving operations work related to the 2007 Parkway Paving project for a total of \$720,000.00. There is no remaining capital appropriation in 04100-9010000 project CPV701;
- k) All paving operations work related to the Chicago Avenue (East 28th Street to East Lake Street (ex. Bridge)) project for a total of \$832,734.03. Paving operations capital appropriation in 04100-9010000 project C16515 should be increased by \$92,534.03 and excess revenue shall be re-designated in the amount of \$147,587.99;
- I) All paving operations work related to the University Avenue Southeast CSAH 36 project for a total of \$179,919.43. Paving operations capital appropriation for 04100-9010000 project C02070 should be decreased by \$107,863.57 and excess revenue shall be re-designated in the amount of \$291,900.89;
- m) All paving operations work related to the Hiawatha Avenue I-94 to 24th Street project for a total of \$2,140,525.92. The paving operations capital appropriation for 04100-9010000 project CA1395 should be decreased by \$22,470.08 and excess revenue shall be re-designated in the amount of \$72,849.88;
- n) All paving operations work related to the Southeast Minneapolis Industrial Phase 1 project for a total of \$923,710.05. Paving operations capital appropriation in 04100-9010000 project C27506PV should be decreased by \$48,289.95 and excess revenue shall be re-designated in the amount of \$12,542.94;
- o) All paving operations work related to the University Avenue Northeast project for a total of \$13,845.60. Paving operations capital appropriation in 04100-9010000 project C01064 should be decreased by \$266,154.40 and excess revenue shall be re-designated in the amount of \$2,989.44;
- p) All paving operations work related to the Hiawatha Avenue I-94 to East 24th Avenue project for a total of \$377,397.64. Paving operations capital appropriation for 04100-9010000 project C01039 should be decreased by \$1,353,602.36 and excess revenue shall be re-designated in the amount of \$175,106.50:
- q) All paving operations work related to the Miscellaneous Residential Segments project for a total of \$126,203.25. Paving operations capital appropriation in 04100-9010000 project C99RES should be increased by \$123,367.21 and excess revenue shall be re-designated in the amount of \$98,319.11;
- r) All paving operations work related to the Franklin Avenue East project for a total of \$3,807,625.63. Paving operations capital appropriation for 04100-9010000 project CFRANKPV should be decreased by \$2,918.37 and excess revenue shall be re-designated in the amount of \$164,366.42;
- s) All paving operations work related to the 3rd Avenue South Avenue of the Arts project for a total of \$6,297,963.40. Paving operations capital appropriation for 04100-9010000 project C30508PV should be decreased by \$233,758.51 and excess revenue shall be re-designated in the amount of \$526,470.75;
- t) All paving operations work related to the 15th Avenue Southeast MSA Street Reconstruction project for a total of \$2,757,775.54. Paving operations capital appropriation for 04100-9010000 project CPV013PV should be increased by \$59,943.51 and excess revenue shall be re-designated in the amount of \$13,903.40:
- u) All paving operations work related to the Chicago Avenue South (East 46th Street to East 49th Street) project for a total of \$1,657,715.93. Paving operations capital appropriation for 04100-9010000 project C16525PV should be decreased by \$28,760.07 and excess revenue shall be re-designated in the amount of \$91,693.61;
- v) All paving operations work related to the 2007 Alley Renovation project for a total of \$267,843.09. Paving operations capital appropriation for 04100-9010000 project CPV706 should be decreased by \$8,517.02 and excess Net Debt Bonds shall be re-designated in the amount of \$8,517.02;
- w) All paving operations work related to the Hennepin/Lyndale Avenue Realignment at I-94 project for a total of \$798,157.53. Paving operations capital appropriation for 04100-9010000 project C42501

should be decreased by \$1,725.47;

- x) All paving operations work related to the Hennepin Avenue South project for a total of \$1,975,017.42. Paving operations capital appropriation for 04100-9010000 project C42502PV should be decreased by \$366,175.58 and additional revenue is needed to finalize this project in the amount of \$147.44;
- y) All paving operations work related to the 4th Street Southeast Hennepin County project for a total of \$587,614.40. Paving operations capital appropriation for 04100-9010000 project C02060 should be increased by \$277,614.40 and additional revenue is needed to finalize this project in the amount of \$192,432.44;
- z) All paving operations work related to the Concrete Buspad Construction project for a total of \$171,100.06. Paving operations capital appropriation in 04100-9010000 project CBUSPD should be decreased by \$38,899.94 and additional revenue is needed to finalize this project in the amount of \$11,100.06;
- aa) All paving operations work related to the Loring Greenway Infrastructure Gap project for a total of \$643,061.86. Paving operations capital appropriation for 04100-9010000 project CLORGR should be increased by \$27,561.86 and additional revenue is needed to finalize this project in the amount of \$27,561.86:
- bb) All paving operations work related to the Hennepin Avenue Theatre District Streetscape (5th Street to 10th Street) project for a total of \$3,921,480.64. Paving operations capital appropriation in 04100-9010000 project CHENNS should be decreased by \$742,781.54 and additional revenue is needed to finalize this project in the amount of \$241,298.84;
- cc) All paving operations work related to the Nicollet Avenue South (46th to Minnehaha Parkway) project for a total of \$3,416,574.05. Paving operations capital appropriation for 04100-9010000 project C43004 should be increased by \$41,464.33 and additional revenue is needed to finalize this project in the amount of \$15,008.58:
- dd) All paving operations work related to the LaSalle Avenue South 8th Street South to Franklin Avenue project for a total of \$2,973,400.40. Paving operations capital appropriation for 04100-9010000 project CPV014PV should be increased by \$258,901.68 and additional revenue is needed to finalize this project in the amount of \$109,998.41;
- ee) All paving operations work related to the Fremont Avenue North Lowry to Plymouth project for a total of \$1,136,362.88. Paving operations capital appropriation for 04100-9010000 project CPV025PV should be increased by \$140,761.80 and additional revenue is needed to finalize this project in the amount of \$4,386.35;
- ff) All paving operations work related to the 28th Avenue South 38th to 40th Street East project for a total of \$736,190.99. Paving operations capital appropriation for 04100-9010000 project CFLA27PV should be decreased by \$242,828.10 and additional revenue is needed to finalize this project in the amount of \$212,333.58;
- gg) All bridge operations work related to the East River Parkway Bridge over Bridal Veil Falls project for a total of \$2,458,171.22. Bridge operations capital appropriation for 04100-9010000 project CBR102 should be increased by \$48,266.66 and additional revenue is needed to finalize this project in the amount of \$48,266.65;
- hh) All bridge operations work related to the Chicago Avenue South Bridge and Paving project for a total of \$2,789,349.49. Bridge operations capital appropriation for 04100-9010000 project CBR003 should be decreased by \$257,474.59 and additional revenue is needed to finalize this project in the amount of \$46,034.19:
- ii) All bridge operations work related to 2007 Major Bridge Repair and Rehabilitation project for a total of \$201,378.54. Bridge operations capital appropriation for 04100-9010000 project CBR701 should be decreased by \$62,620.57 and excess Net Debt Bonds shall be re-designated in the amount of \$62,620.57;
- jj) All bridge operations work related to the Dinkytown Bridge 15th Avenue Southeast project for a total of \$146,225.29. Bridge operations capital appropriation for 04100-9010000 project CBR036 should be decreased by \$44,774.71 and excess revenue shall be re-designated in the amount of \$75,505.52;

- kk) All bridge operations work related to the Park Avenue Bridge CSAH 33 project for a total of \$46,335.66. Bridge operations capital appropriation for 04100-9010000 project CBRPAR should be decreased by \$3,664.34 and excess revenue shall be re-designated in the amount of \$3,664.34;
- II) All bridge operations work related to the 2006 Major Bridge Repair and Rehabilitation project for a total of \$199,937.38. Bridge operations capital appropriation for 04100-9010000 project CBR601 should be decreased by \$62.62 and excess revenue shall be re-designated in the amount of \$62.62; and
- mm) All bridge operations work related to the Broadway/Central Bridge Railing Improvements project for a total of \$356,954.01. Bridge operations capital appropriation for 04100-9010000 project CBR115 should be decreased by \$33,045.99 and additional revenue is needed to finalize this project in the amount of \$56,954.01.

Be It Further Resolved that as result of the above close-out of projects c, d, f, v, and ii, \$554,307.26 of Net Debt Bonds becomes available for re-allocation. This entire amount shall be reallocated to the following projects:

- Project bb (Hennepin Avenue Theatre District Streetscape 5th St to 10th St 04100-9010000-CHENNS) in the amount of \$180,390.25;
- Project dd (LaSalle Avenue South 8th Street South to Franklin 04100-9010000-CPV014PV) in the amount of \$90,445.84;
- Project ff (28th Avenue South 38th to 40th Street East 04100-9010000-CFLA27PV) in the amount of \$212,333.58;
- Project 2009 Major Bridge Repair and Rehabilitation (04100-9010000 CBR901) in the amount of \$62,620.57; and
- Project 2009 Alley Renovation Program (04100-9010000-CPV906) in the amount of \$8,517.02.
 Through this action, Project ff (28th Avenue South 38th to 40th Street East) is completely closed,

 Project bb (Hennepin Avenue Theater District Streetscape 5th St to 10 St) needs \$60,908.59 in revenue to close, Project dd (LaSalle Avenue South 8th Street South to Franklin Ave) needs \$19,552.57 in revenue to close, and the 2009 Major Bridge Repair and Rehabilitation and the 2009 Alley Renovation Program will not be closed.

Be It Further Resolved that as a result of the above close-out of projects k - u, and jj - II, \$1,676,963.41 of revenue becomes available for re-allocation. The entire amount shall be re-allocated as follows:

- \$60,908.59 to Project bb (Hennepin Avenue Theatre District Streetscape (5th St to 10th St 04100-9010000-CHENNS) to close;
- \$19,552.57 to Project dd (LaSalle Avenue South 8th Street South to Franklin Ave 04100-9010000-CPV014PV) to close;
- \$62.62 to 2009 Major Bridge Repair and Rehabilitation (04100-9010000-CBR901). This project is not being closed:
- \$401,891.58 to Projects x aa, cc, ee, gg, hh, and mm. This action closes these projects;
- \$585,328.54 to 1st Avenue One-Way to Two-Way (1st St to 12th St 04100-9010000-
- CPV049). This project is not being closed; and
- \$609,219.51 to Hennepin Avenue One-Way to Two-Way (1st St to 12th St 04100-9010000-CPV050 by \$609,219.51). This project is not being closed.
 Adopted 3/6/2009.

Absent - Benson.

Resolution 2009R-087, requesting concurrence of the Board of Estimate and Taxation in the reallocation of already issued Net Debt Bonds in the amount of \$554,307.26, was adopted 3/6/2009 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

RESOLUTION 2009R-087 By Colvin Roy and Ostrow

Requesting concurrence of the Board of Estimate and Taxation in the reallocation of already issued Net Debt Bonds in the amount of \$554,307.26.

Resolved by The City Council of The City of Minneapolis:

That the Board of Estimate and Taxation be requested to concur with the reallocation of already issued Net Debt Bonds in the total amount of \$554,307.26 from the following projects:

- West Broadway CSAH Project (04100-9010000 Project C20102PV) in the amount of \$136,075.90;
- Mid-City Industrial Project (04100-9010000 Project CPV036) in the amount of \$166,703.52;
- Hiawatha Avenue (Phase V) 46th to Crosstown Highway Project (04100-9010000 Project C01071) in the amount of \$180,390.25;
- 2007 Alley Renovation Project (04100-9010000 Project CPV706) in the amount of \$8,517.02;
 and
- 2007 Major Bridge Repair and Rehabilitation Project (04100-9010000 project CBR701) in the amount of \$62,620.57.

to the following projects:

- Hennepin Avenue Theatre District Streetscape Project (04100-9010000-CHENNS) in the amount of \$180,390.25;
- LaSalle Avenue South 8th Street South to Franklin Project (04100-9010000-CPV014PV) in the amount of \$90,445.84;
- 28th Avenue South 38th to 40th Street East Project (04100-9010000-CFLA27PV) in the amount of \$212,333.58;
- 2009 Major Bridge Repair and Rehabilitation Project (04100-9010000 CBR901) in the amount of \$62,620.57; and
- 2009 Alley Renovation Program (04100-9010000-CPV906) in the amount of \$8,517.02.
 Adopted 3/6/2009.

Absent - Benson.

T&PW & W&M/Budget - Your Committee, having under consideration the low bid submitted to the Public Works Department on OP 7057 from Knutson Construction Services, Inc., in the amount of \$9,868,000, to furnish and deliver all labor, materials, equipment, and incidentals necessary to accomplish the construction of the Hiawatha Maintenance Facility and authorizing and directing the proper City officers to execute a contract for said service, all in accordance with City specifications and contingent upon approval of the Civil Rights Department, now recommends:

T&PW - Acceptance of said bid.

W&M/Budget - Acceptance of said bid. Further, that staff be directed to return to the Transportation & Public Works Committee by July 15, 2009, to report on an implementation plan for the transfer of operations to the new facility and estimated improvements in performance and cost measures for Public Works services, including energy savings.

Colvin Roy moved that the report be amended by approving the Ways & Means/Budget Committee recommendation and deleting the Transportation & Public Works Committee recommendation. Seconded.

Adopted by unanimous consent.

Absent - Benson.

The report, as amended, was adopted 3/6/2009.

Absent - Benson.

Approved by Mayor Rybak 3/9/2009.

(Published 3/10/2009)

The WAYS & MEANS/BUDGET Committee submitted the following reports:

W&M/Budget - Your Committee recommends passage of the accompanying resolution authorizing the settlement of legal matters, as recommended by the City Attorney.

Adopted 3/6/2009.

Absent - Benson.

Resolution 2009R-088, authorizing settlement of Mercury Refining Superfund Site case, was adopted 3/6/2009 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

RESOLUTION 2009R-088 By Ostrow

Authorizing legal settlement.

Resolved by The City Council of The City of Minneapolis:

That the City Attorney is authorized to proceed with the settlement of the Mercury Refining Superfund Site case by payment of \$6,162.52 to "EPA Hazardous Substance Superfund".

Further, authorize the City Attorney's Office to execute any documents necessary to effectuate the settlements.

Adopted 3/6/2009.

Absent - Benson.

W&M/Budget - Your Committee recommends that the proper City officers be authorized to amend the Oracle USA, Inc. contract C-24470 for the City's COMPASS Financials system, to extend the contract for an additional two years; and to negotiate new rate pricing.

Ostrow moved to substitute the following report for the above report. Seconded.

Adopted by unanimous consent.

Absent - Benson.

W&M/Budget - Your Committee recommends that the proper City officers be authorized to amend the Oracle USA, Inc. contract C-24470 by \$250,000; to extend the contract for an additional two years and to negotiate new rate pricing.

No additional appropriation required.

Adopted 3/6/2009.

Absent - Benson.

W&M/Budget - Your Committee recommends acceptance of the bid received on OP #7088 from Finance and Commerce, Inc. for an estimated annual amount of \$50,000 to furnish publication of ordinances and proceedings for the City of Minneapolis through December 31, 2010.

It is further recommended that the proper City officers be authorized to execute a contract for said services.

Adopted 3/6/2009.

Absent - Benson.

The ZONING & PLANNING Committee submitted the following reports:

Z&P - Your Committee, having under consideration the appeal filed by Old Highland Neighborhood Association from the decision of the Planning Commission granting applications for a conditional use permit to allow a fast food restaurant, a variance to reduce the interior side yard setback along the north property line, and a variance to reduce the minimum drive aisle width to access parking areas and pump islands at 1120 West Broadway, now recommends that said appeal be granted in part, and the conditional use permit and the variance to reduce the interior side yard setback be denied.

Your Committee also recommends that the appeal be denied in part, and that the variance to reduce the minimum drive aisle width be approved.

Your Committee further recommends that the City Attorney be directed to draft Findings of Fact consistent with the Committee's actions, based upon the public testimony heard.

Adopted 3/6/2009.

Absent - Benson.

Z&P - Your Committee, having under consideration the appeal filed by the Dan Kennedy from the decision of the Heritage Preservation Commission denying a Demolition of a Historic Resource application for the Pauline Fjelde residence at 3009 Park Avenue South, establishing interim protection, and directing the Planning Director to prepare or cause to be prepared a designation study for the property, now recommends that the appeal be denied and the findings of Heritage Preservation Commission Staff be adopted.

Adopted 3/6/2009.

Absent - Benson.

Z&P-Your Committee recommends concurrence with the recommendation of the Mayor to appoint Carol Daly (Ward 7) to the Minneapolis Arts Commission, to fill the term previously held by Collette Illarde, set to expire January 31, 2011.

Adopted 3/6/2009.

Absent - Benson.

MOTIONS

Ostrow moved that the regular payrolls for all City employees under City Council jurisdiction for the month of April, 2009, be approved and ordered paid subject to audit by the Finance Officer. Seconded. Adopted upon a voice vote 3/6/2009.

Absent - Benson.

Schiff moved that the Findings of Fact relating to the appeal before the Zoning & Planning Committee and the City Council regarding the property at 1120 West Broadway, prepared by the City Attorney and on file in the Office of the City Clerk, be adopted.

Adopted upon a voice vote 3/6/2009.

Absent - Benson.

RESOLUTION

Resolution 2009R-089, honoring Phillips Youth Civic Engagement Project for its successes working with youth in the community, was adopted 3/6/2009 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

RESOLUTION 2009R-089

By Ostrow, Gordon, Hofstede, Johnson, Samuels, Lilligren, Goodman, Glidden, Schiff, Benson, Remington, Colvin Roy and Hodges

Honoring Phillips Youth Civic Engagement Project for its successes working with youth in the community.

Whereas, the City of Minneapolis holds Civic Engagement as a core value and recognizes the importance of passing this value on to our young people; and

MARCH 6, 2009

Whereas, the City of Minneapolis supports community partnerships as an important and effective means to improve and enhance the livability of our city; and

Whereas, the Minneapolis Center for Neighborhoods, the University of Minnesota, Phillips Community Television Network, Phillips Weed & Seed, Mt. Olive Lutheran, Waite House, Andersen School, Stewart Park, Little Earth, Messiah Lutheran Church, St. Paul's Lutheran and Our Savior's Lutheran Church have partnered together for the Youth Civic Engagement Project; and

Whereas, the goals have been to support and increase the academic achievement of youth and families; active partnership with employment and training opportunities; and focused outreach to Somali and Latino populations; and

Whereas, Phillips Weed and Seed brought together eight youth-serving agencies around civic engagement, was given a McKnight grant, had organizing meetings with sixty youth, and facilitated organizing meeting and youth training sessions; and

Whereas, four youth groups were formed to work on civic engagement projects, consisting of Andersen Community Education and Stewart Park - working on anti-drug and anti-gang website; Waite House and St. Paul's Lutheran - participated in an Arts Activism project in which two murals and several other art projects were completed; Little Earth Youth - youth were rewarded by participating in the painting of a mural; and Our Savior's Lutheran, Messiah Lutheran, St. Paul's Lutheran, and Mount Olive Lutheran - gathered information of Phillips residents to put together an asset map; and

Whereas, interviews and tours have been taped and put on the PCTV web site and have a link to My Space - in order that youth can choose a program in which they may want to participate; and

Whereas, this has been a collaborative project which is continuing post Weed & Seed; and

Whereas, on May 28th, there will be a celebration of accomplishments and a showcase of the youth projects done over the last couple of years;

Now, Therefore, Be It Resolved by The City Council of The City of Minneapolis:

That we commend and extend our congratulations to the contributors and youth involved with the success of the Youth Civic Engagement Project.

Be It Further Resolved that the City of Minneapolis thanks the strong partners for their ongoing work improving the lives of the people of our city.

Be It Further Resolved that we wish the best to all concerned and wish the best of luck and happiness in all future endeavors to all involved.

Adopted 3/6/2009.

Absent - Benson.

UNFINISHED BUSINESS

Pursuant to notice, Ostrow moved to introduce the subject matter of revision of the City Charter pursuant to the recommendations from the Charter Commission as transmitted on March 4, 2009, for first reading and referral to the Intergovernmental Relations Committee, as follows:

Revising Chapter 1: City and Ward Boundaries

Revising Chapter 2: Officers - Elections

Revising Chapter 3: Powers and Duties of Officers

Revising Chapter 4: City Council—Powers—Duties, Etc.

Revising Chapter 5: Taxation and Finance

Revising Chapter 6: Police Department

Revising Chapter 7: Fire Department

Revising Chapter 8: Public Highways and Bridges

Revising Chapter 9: Water Works

Revising Chapter 10: Local Improvements - Assessments

Revising Chapter 11: Miscellaneous Provisions

Revising Chapter 12: Power of City Council to Grant Franchises

Revising Chapter 13: City Planning Department

Revising Chapter 14: Board of Health

Revising Chapter 15: Board of Estimate and Taxation

MARCH 6, 2009

Revising Chapter 16: Parks and Parkways

Revising Chapter 17: Library Board Revising Chapter 18: [Reserved] Revising Chapter 19: Civil Service

Revising Chapter 20: Laws Made Part of the Charter by Reference, Etc. Seconded.

Adopted 3/6/2009.

Pursuant to notice, Johnson moved to introduce the subject matter of an ordinance amending Title 22, Chapter 598 of the Minneapolis Code of Ordinances relating to Land Subdivision: Land Subdivision Regulations, for first reading and referral to the Community Development and Ways & Means/Budget Committees (imposing a park dedication requirement on new development). Seconded.

Adopted 3/6/2009.

NEW BUSINESS

Gordon moved to request unanimous consent to introduce an ordinance amending Title 13, Chapter 341 of the Minneapolis Code of Ordinances relating to *Licenses and Business Regulations: Taxicabs*, that Section 341.775 relating to *Review of Fares* shall become effective on March 1, 2010; and prior to March 1, 2010, the maximum meter fare amounts for mileage charges shall be equal to the amounts as were authorized to be charged on February 28, 2009. Seconded.

Goodman moved to call the question on Gordon's motion. Seconded.

Adopted upon a voice vote.

Gordon's motion lost upon a voice vote 3/6/2009.

Gordon moved to request unanimous consent to introduce an ordinance amending Title 13, Chapter 341 of the Minneapolis Code of Ordinances relating to *Licenses and Business Regulations: Taxicabs*, that Section 341.775 relating to *Review of Fares* shall become effective on March 1, 2010; and prior to March 1, 2010, for first reading and referral to the Public Safety & Regulatory Services Committee (the maximum meter fare amounts for mileage charges shall be equal to the amounts as were authorized to be charged on February 28, 2009). Seconded.

Unanimous consent was not obtained.

Glidden gave notice of intent to introduce at the next regular meeting of the City Council an ordinance amending Title 13, Chapter 341 of the Minneapolis Code of Ordinances relating to *Licenses and Business Regulations: Taxicabs*, that Section 341.775 relating to *Review of Fares* shall become effective on March 1, 2010; and prior to March 1, 2010, the maximum meter fare amounts for mileage charges shall be equal to the amounts as were authorized to be charged on February 28, 2009.

Samuels moved to introduce the subject matter of the following ordinances amending Title 20 of the Minneapolis Code of Ordinances relating to Zoning Code, for first reading and referral to the Zoning & Planning Committee (to rezone select parcels and modify overlay districts as an implementation step for the West Broadway Alive plan adopted March 21, 2008):

- a) Chapter 521 relating to Zoning Districts and Maps Generally;
- b) Chapter 551 relating to Overlay Districts. Seconded.

Adopted by unanimous consent 3/6/2009.

Ostrow gave notice of intent to introduce at the next regular meeting of the City Council the subject matter of an ordinance amending Title 2, Chapter 15 of the Minneapolis Code of Ordinances relating to Administration: Ethics in Government:

- a) Article I, Conflict of interest (correcting a typographical error) and Soliciting or accepting gifts (conforming language to the language of the state gift ban);
- b) Article III, Ethical practices board (changing the appointment process and eliminating the requirement to submit a budget request) and Ethics education (requiring ethics education every three years).

MARCH 6, 2009

Benson moved to introduce the subject matter of an ordinance amending Title 4, Chapter 74 of the Minneapolis Code of Ordinances relating to Animals and Fowl: Miscellaneous Regulations, for first reading and referral to the Public Safety & Regulatory Services Committee (to permit the keeping of honeybees in the City of Minneapolis). Seconded.

Adopted by unanimous consent 3/6/2009.

Lilligren moved to adjourn to Room 315 City Hall to consider the Khang Family Claim and the *Arradondo, et al. v. City of Minneapolis et al.* lawsuit. Seconded.

Adopted upon a voice vote 3/6/2009.

Room 315 City Hall

Minneapolis, Minnesota

March 6, 2009 - 11:34 a.m.

The Council met pursuant to adjournment.

Council President Johnson in the Chair.

Present – Council Members Lilligren, Glidden, Remington, Benson, Goodman, Samuels, Ostrow, and President Johnson.

Absent - Colvin Roy, Hodges, Gordon, Hofstede, and Schiff.

Moore stated that the meeting may be closed for the purpose of discussing attorney-client privileged matters involving the Khang Family Claim and the *Arradondo*, et al. v. City of Minneapolis et al. lawsuit.

At 11:37 a.m., Lilligren moved that the meeting be closed. Seconded.

Adopted upon a voice vote.

Absent - Colvin Roy, Hodges, Gordon, Hofstede and Schiff.

Present - Lilligren (Out at 11:44 a.m., in at 11:47 a.m.), Colvin Roy (In at 11:41 a.m., out at 12:34 p.m.), Glidden, Remington, Benson, Goodman (Out at 12:19 p.m., in at 12:30 p.m.), Hodges (In at 11:39 a.m.), Samuels, Gordon (In at 11:39 a.m.), Hofstede (In at 11:41 a.m.), Ostrow, Schiff (In at 11:40 a.m.), and President Johnson.

Also present - Susan Segal, City Attorney; Peter Ginder, Deputy City Attorney; Jim Moore, City Attorney's Office; Mayor R.T. Rybak; Tina Smith, Mayor's Office; Steven J. Ristuben, City Clerk; and Anissa Hollingshead, City Clerk's Office.

Moore summarized the Khang Family Claim and the *Arradondo et al. v. City of Minneapolis et al.* lawsuit from 11:37 a.m. to 12:39 p.m.

At 12:39 p.m., Goodman moved that the meeting be opened. Seconded.

Adopted upon a voice vote.

Absent - Colvin Roy.

Council Member Goodman moved to approve the settlement of the claim of Vang Khang and Yee Moua, on their own behalf and on behalf of their six minor children (hereinafter jointly "Claimants"), for the net amount of \$626,922.11, payable to Claimants and their attorneys and upon certain non-monetary terms, as more fully set forth below.

In exchange for a full and final settlement of all claims on behalf of Claimants and in consideration of the obligations of Plaintiffs as set forth herein, the City:

- 1) Will pay to Claimants the amount of \$17,922.11 as and for the insurance company subrogation claim for the cost of the family's medical care;
- 2) Agrees that Claimants will keep the \$9,000 already paid by the City to help them meet their interim housing needs during the pendency of their claim;
- 3) Will pay an additional \$600,000;

Said funds will be paid from Fund/Org. 06900-1500100-145400.

In addition, the City agrees to non-monetary relief as follows: Hmong Recruitment:

The Minneapolis Police Department will consult with Hmong and Asian community agencies, including, without limitation the Hmong 18 Council, Lao Family Community of Minnesota and Hmong American Mutual Assistance Association, to identify and recruit potential Hmong candidates for the Minneapolis Police Department ("MPD"), including MPD's Cadet, Community Service Officer (CSO) and sworn ranks.

Hmong Community relations:

- 1) MPD Administration will continue to develop its working relationship with the Hmong community, including, but not limited to the Hmong 18 Council, Lao Family Community of Minnesota and Hmong American Mutual Assistance Association. MPD Administration will endeavor, to extent permitted by law, to maintain open communication with Hmong community agencies about law enforcement issues of interest to the Hmong community.
- 2) MPD will conduct in-service training within the next two years relating to Hmong culture, traditions and practices.
- 3) MPD agrees that it will appoint a department official as a liaison to the Hmong community during 2009 and 2010. The appointed official will serve as a point of contact at the MPD for the Hmong community and will attend such Hmong community events as his/her other duties will allow.

In exchange for the foregoing consideration by the City, Plaintiffs will:

- 1) Sign a settlement agreement releasing any and all claims against the City, it officials, agents and employees:
- Agree to hold the City harmless from all claims for subrogation by their health insurance carriers; and

The settlement of this matter shall become final upon approval by the Court of the minor settlement and pursuant to Minn. Stat. Section 466.08. The City Attorney's Office is hereby authorized to execute any documents and the Finance Office is authorized to issue any checks necessary to effectuate the settlement. Seconded.

Adopted 3/6/2009.

Absent - Colvin Roy.

Lilligren moved to adjourn to Thursday, March 12, 2009, at 1:30 p.m. for the purpose of adopting the 2009 revised budget, and to conduct any other business deemed necessary at that time, and that such meeting be and is hereby declared to be an adjourned session of the regular meeting of March 6, 2009. Seconded.

Adopted upon a voice vote 3/6/2009.

Absent - Colvin Roy.

The adjourned session of the City Council meeting was tape recorded with the tape on file in the office of the City Clerk.

Steven J. Ristuben, City Clerk.

Unofficial Posting: 3/9/2009 Official Posting: 3/13/2009; 5/4/2009